

[House Hearing, 107 Congress]
[From the U.S. Government Printing Office]

DEPARTMENTS OF VETERANS AFFAIRS AND
HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS
FOR 2003

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION

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PART 7

ENVIRONMENTAL PROTECTION AGENCY

Printed for the use of the Committee on Appropriations

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Tuesday, March 12, 2002.

ENVIRONMENTAL PROTECTION AGENCY

WITNESSES

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Chairman Walsh's Opening Remarks

Mr. Walsh. Good morning. The subcommittee will come to order.

Good morning, Administrator Whitman. Today we will continue our fiscal year 2003 budget hearings by taking testimony from the Environmental Protection Agency on its 2003 budget submission. For fiscal year 2003, the agency has requested \$7,723,600,800, a decrease of nearly \$459 million from the adjusted fiscal year 2002 appropriated level. I have used the word ``adjusted'' in the context of this comparison for three reasons: First, the final enacted 2002 level includes, by EPA accounting, nearly \$502 million of congressionally-mandated priority spending matters.

Although these Congressional priorities represent just a little over 6 percent of the entire EPA appropriation, it is no surprise that these have been excluded from the 2003 request.

One could say that the decrease for 2003 is due entirely to this fact alone. Second, a little over \$183 million was provided to EPA in the supplemental portion of the 2002 defense appropriation bill for security and counterterrorism-related matters, some of which is not expected to be a recurring cost.

The 2003 request, in fact, includes some \$128 million for Homeland Security-related matters, a reduction of over \$54 million below the 2002 appropriated level.

A third final adjustment deals with the addition in the budget request of just over \$107 million for the accrued costs for legislation proposed by the administration and employees pension and health benefits. While I expect the issue of whether or not the Congress approves this legislative proposal will be determined at a later time, and undoubtedly at an appropriations-wide basis. For the purposes of a fair apples-to-apples comparison between 2003 and 2002, I have included in the final 2002 enacted level mention about the equivalent costs of this proposed legislation.

Testifying before the committee this morning, and again this afternoon, will be EPA's very able administrator, former New Jersey Governor, Christine Todd Whitman. Madam Administrator, we welcome you back.

As you are aware, our schedule leading to markup of the 2003 appropriations bills has been tightened considerably, making it very difficult to schedule more than one day for this hearing. I am sure you are very disappointed that we won't be going more than one day. Nevertheless, you now have a year of service under your belt, and I am sure that we can have a very productive session today.

As a housekeeping matter, I would just like to note that because there are no votes until after 6:30 this evening many of our members will be flying into Washington today from their districts and may arrive late during the morning session or into the afternoon. When they do arrive, I will make every effort to recognize them as quickly as possible so that all members will have the opportunity to participate fully.

With the indulgence of my colleagues, I would like to begin this morning with a few more general comments. First, I would note that EPA's 2003 budget request is not only well-conceived, but perhaps the most realistic budget document we have seen for the agency in at least 8 years. While it is far from perfect, it includes, after all, only executive branch earmarks and no legislative earmarks. There seems to be a trend there, and it is disappointing to see that recurring throughout the appropriations budget, and there has been a lot of discussion, particularly about the Army Corps of Engineers budget. It will be an issue for us, a very serious issue.

But it does include significant funding for many Congressional priorities. To mention just a few of these, the Brownfields program is proposed for \$200 million. The 1-year-old Beach Grant program for \$10 million, and the Section 319 Nonpoint Source Pollution Grant programs for \$238 million; the Endocrine Disrupter Research program for \$12 million; and the Great Lakes program for \$15,128,000. All of these funding levels are at or above the 2002 appropriated level.

Perhaps more significant than any other program request is the fact that you have asked for a very realistic \$1.212

billion for the Clean Water SRF program tells me that you are more interested in presenting and pursuing a responsible budget than you were in playing silly budgetary games with Congress.

This committee and the Congress will obviously make some changes in the document that you have presented to us. Nevertheless, I would submit that you have made our job just a bit more difficult by submitting a budget that we will be challenged to find great fault in.

Madam Administrator, you and your agency are to be commended. In the same vein, I would like to take this opportunity to publicly thank you as well as your fine staff for the excellent and most difficult job you did in decontaminating the Hart Senate Office Building following the anthrax exposure last fall. The local media so often focused on this problem or that problem, this person's complaint or that person's complaint, they missed the real point, that the Hart Building is not only large; it is an extremely complex structure.

EPA undertook and accomplished, in relatively short order, something that no one had ever done before. If I may signal out two key players in this effort, all of us should thank Mr. Richard Rupert, EPA's on-scene coordinator, who literally gave up months of his life to move to Washington in order to take on this challenge; and Mr. Tom Voltaggio, EPA region 3's deputy regional administrator, for the countless hours they and their team spent to undertake this incredible task. They, every bit as much as our military forces and police and firefighters and paramedics in New York City, at the Pentagon and elsewhere around the Nation, are, in my opinion, the true heroes of the war on terrorism.

Finally, I would like to take a moment to comment on unfair, and I think totally erroneous, allegations made recently through the media that Administrator Whitman and the agency have been backing away from proper enforcement of the Clean Air Act through actions taken on the New Source Review program. The facts by themselves would seem to put this ridiculous notion to rest.

Since January 2001, the agency has issued 87 information requests to power plants, refineries and other facilities for specific pollution data required under section 114 of the Clean Air Act. They have issued 22 notices of violations or findings of violation under section 113 of the Clean Air Act.

They have filed and concluded, administratively and otherwise, 7 violation cases and conducted numerous other miscellaneous enforcement actions using the many authorities provided by law. But I do not wish to speak for the Agency or the Administrator on this or any other matter. It is, I believe, incumbent on us to not allow erroneous, and perhaps in this case, malicious accusations to linger without being challenged. This is an issue which the Subcommittee has followed for quite some time, and, I might add, not necessarily in agreement with the Agency on how they have interpreted the scope of what constitutes a New Source Review under the law.

Rather than trying to somehow subvert the law, I believe the Administrator has done nothing more than tried to reach out to industry in an attempt to negotiate solid, statutorily consistent, environmental results rather than drag folks

immediately into court.

Should the soft touch not get the job done, I am quite certain, and the statistics I noted a moment ago bear this out. There will be no hesitation to take the administrative and legal routes. As the Administrator herself stated in her confirmation hearing a little over a year ago, 'I intend to use the carrot, but I won't throw away the stick.'

I hope this unfortunate and unnecessary diversion is put to rest so the Administrator and the Agency can continue to concentrate on the important environmental issues before them.

I thank you all for your indulgence and would like now to recognize my friend and colleague, the ranking member, the gentleman from West Virginia, Mr. Mollohan, for any remarks he would like to make.

Ranking Member Mollohan's Opening Remarks

Mr. Mollohan. Thank you, Mr. Chairman. Governor Whitman, welcome. I would like to join the chairman in welcoming you to the hearing this morning. First, let me congratulate you on the excellent work you have done under very trying circumstances in your first year on the job. I look forward to your testimony here today.

Last year, none of us knew the incredible challenges our Nation would be facing in the coming months. September the 11th added another dimension to EPA's mission to protect the public's health and safeguard the environment. I read your budget submission with interest, and am pleased to see the request for \$127 million in new funding for homeland security. I will be interested to hear you talk about the lessons that have been learned from EPA's on-site work at the World Trade Center site, and the anthrax cleanup at the Hart Building and other locations in Washington, D.C.

Also, I am pleased to see that your proposed budget increases the funds available for Brownfields reclamation, providing \$200 million. This will help meet the growing demand and is definitely a step in the right direction. Your budget proposal also provides \$21 million for a new watershed initiative, which will target up to 20 watersheds around the country for improvement. Not only will this result in cleaner water, it will do so by building on the public/private partnerships that have proven so crucial in efforts to work with stakeholders to restore the environment in my home State of West Virginia.

However, there are aspects of this budget that concern me: the cut in funding for the Clean Water State Revolving Fund, for example. The administration's budget proposes to cut it from \$1,350,000,000 to \$1,212,000,000. \$500 million of congressionally-mandated water and sewer infrastructure projects are also cut out of your budget. We can argue about who has the best system for selecting projects, but we shouldn't use that disagreement as an excuse to cut funding for these critical purposes.

I look forward to working through these differences with you and working with the chairman as the process moves forward, and I look forward to your testimony here. Thank you. Thank you, Mr. Chairman.

Mr. Walsh. Thank you. Madam Administrator, it is now my pleasure to recognize you for your opening statement and the full text of your testimony will appear in the record.

Administrator Whitman's Opening Remarks

Ms. Whitman. Thank you very much, Mr. Chairman, members of the committee. I am pleased once again to have this opportunity to discuss with you the President's budget request for the next fiscal year for the Environmental Protection Agency. The President's budget provides the Environmental Protection Agency with the funds EPA needs to efficiently and effectively carry out its mission to safeguard the environment and protect public health.

As you mentioned, Mr. Chairman, in your opening remarks, the President's total request for EPA for fiscal year 2003 is \$7.7 billion, and I am just rounding. You have it--all the numbers there. This request is a \$200 million increase over last year's request. Overall, our proposed budget reflects the goals that President Bush and I share, leaving America's air cleaner, its water purer and its land better protected. I should also point out that EPA's proposed budget is part of the administration's record overall request of \$44.1 billion for environmental and natural resources, the highest ever such request representing a \$1.1 billion increase over enacted levels for the current fiscal year.

If I may, Mr. Chairman, I would like to discuss some of the highlights of our proposal, while submitting a somewhat more detailed statement for the record. In addition, I know there are some specific questions that members will have, and I look forward to having the opportunity to discuss those once we are finished with the formal statements.

First, almost half of our budget, as you know, goes for grants to State, local and tribal governments. This reflects our experience that many innovative, creative and effective environmental achievements are being made by State, local and county governments. As I have traveled around the country during the past year, I have seen some very exciting works in action, whether it is the preservation of additional land in the great swamp of New Jersey where Congressman Frelinghuysen and I had an event together, to the good work being done by Project Pride in Kentucky, the citizens down there, and in countless other communities across America. EPA is building strong partnerships for environmental success, and the results speak for themselves. In this budget, we will build on those results to achieve even greater environmental progress.

Next, this budget more than doubles the funds available for Brownfield reclamation, providing \$200 million. This money will lead to thousands of acres of better protected land in the years ahead. The success that so many communities have had in cleaning up our less challenging Brownfields will now be replicated in the more difficult sites, by cleaning up the more difficult sites that we find across the country.

We have also continued to ask for steady funding for the Superfund program at \$1.3 billion. I should also point out that our request for Brownfields funding is, in addition to the Superfund request, not a part of it, a change from the practice

in the past. Third, this budget provides important funding for the New Watershed Initiative, again, as the Chairman mentioned: \$21 million to enable us to identify 20 of America's most challenged watersheds to work in partnership with the States and local communities to help restore and protect those precious acres.

This initiative will show the real results that partnerships can achieve, and how such partnerships can bring together existing programs in a united effort. That is an important aspect of what we are doing here with this proposal.

Nonpoint source pollution is a critical challenge that we all face. The watershed initiative fits into that, and we propose funding the Nonpoint Source Grant program at \$238.5 million. As a result, this budget will help improve water quality for drinking, boating, swimming and fishing in the watersheds that we target.

There are numerous other important initiatives in our proposed budget. They include funding to increase the development of new technologies for environmental progress, funding for research that could lead to significant curtailing of animal testing by building on the discoveries from the human genome project and funding to increase our knowledge base about air quality challenges so that we can help save lives and prevent illness, such as asthma among America's children. In addition, the combined funding that we have proposed for the drinking water and Clean Water State Revolving Funds is the largest such combined request ever.

Of course, our budget request also includes significant new money to help EPA meet its homeland security responsibilities. \$124 million in new funding we are requesting will support such important efforts as protecting the Nation's drinking water infrastructure, by funding vulnerability assessments in the Nation's water utilities, securing additional equipment and personnel to expand our ability to respond to biological attacks, and investing in research designed to enable the Nation to better detect and respond to chemical or biological attacks.

I am pleased to say, Mr. Chairman, that taken together, the President's proposed EPA budget for fiscal year 2003 fully supports the work of this Agency. It will enable us to transform EPA's 30-year mission to meet the challenges of the 21st century, and it brings us that much closer to realizing our goal of cleaner air for all Americans to breathe, purer water for all Americans to drink and swim and fish, and better protected land for all Americans to enjoy and cherish for the generations to come.

Thank you very much, and I would be pleased to answer your questions.

[The information follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Walsh. Thank you. We will proceed with questions now.

INDOOR AIR AND RESEARCH

I would like to begin my questioning this morning with a discussion of the importance of and the budget request for indoor environments. We all recognize that EPA has no statutory authority to regulate indoor air. Common sense dictates that the indoor environment each of us deals with on a daily basis contributes greatly to numerous health-related issues. Indeed, some of the studies indicate that Americans spend as much as 90 percent of their time indoors, where they are exposed to levels of certain pollutants far greater than those found out of doors. The fallout literally from the World Trade Center attack and the surrounding neighborhoods, homes and apartments, and the experience of the anthrax cleanup, have only emphasized the importance of the issues surrounding indoor air.

I am aware that the EPA's budget includes the objective to ensure healthier indoor air within its preventing pollution activity. Within that objective, some \$40 million is requested for 2003, which I should note is an increase of \$652,000 compared to fiscal year 2002. Of this \$40 million-plus, \$38.5 million appears to be available to carry out the agency's principal program strategy for indoor environments, which is to increase public awareness and increase partnerships.

Among the activities funded in this area are the children's indoor environments program, the indoor environment program for houses, schools and buildings, radon detection and education programs, and the radon and air grants made through the agency's STAG account. I am confident these are all fine programs, but my comments--and my comments should not be perceived as a criticism. Rather, I am trying to make the point that while significant funds are being spent to educate people about the dangers posed by indoor environments, precious little is being spent to conduct research aimed at detecting and resolving many of these indoor air problems. Of the \$40 million provided in this area, just \$1.7 million is proposed for research. An added complex to all this has to do with the very subject for which I praised you and your employees just a few moments ago, fighting terrorist attempts like anthrax which severely impact on indoor environments.

It seems to me that among other things, we should be doing significant research aimed at developing building defense systems for chemical and biological attacks. I was approached just last week by a group who have developed a consumer-sized sensing system for water, but not for air. Unfortunately this also appears to me to be missing in the EPA's budget submission. Other similar research areas that seem to be missing as well might include the development, evaluation and demonstration of advanced indoor environmental quality technologies. The more advanced understanding of air, heat, moisture and contaminant transport within buildings. The indoor environment impacts resulting from air and contaminant flow around homes and buildings and the interaction of indoor air quality, thermal comfort, lighting and acoustic quality, and the effect that these have on human health and productivity.

Madam Administrator, I would not ask you to respond at this time to each of these suggested research areas, although you may wish to or you may wish to do so at a later time in the record. Rather, I would ask whether you agree that we are not

doing enough in this area of indoor environmental research.

Ms. Whitman. Well, Mr. Chairman, we have a number of different research actions or research programs underway right now aimed at understanding the health effects of indoor pollutants and reducing the risk of those contaminants. That research is across the board. It is not always focused solely on indoor air. Sometimes we are looking at the contaminant itself and what the long-term health impact is of that. It may not appear as being just an indoor air quality problem, because we are looking at biological contaminants, particulate matter, volatile organic compounds. There are 13 research labs across the country with which EPA works. We have our own labs, and we also contract to ensure that we are focusing on what you have identified as--and we believe are also very important issues.

We do need to get a better understanding of, I believe, how we put together a program on indoor air to meet the kind of challenge that we faced at the World Trade Center. As you may know, the Office of Homeland Security has formed an inter-agency building air protection work group, of which the EPA is a member, that is directed to do--precisely the kind of research you were talking about, to meet those individual challenges. But as you pointed out, we also have, and are doing, a lot of work on children's health risk. We are focusing on the long-term health effects of biological contaminants found in the indoor air environment and what we can do to prevent them. The Indoor Air Quality tools for schools program that you talked about and the education program are all a part of making people aware of what they can do to reduce their exposure.

We have a pollution prevention research program that we are funding to develop tools to characterize and prevent emissions of biological contaminants from indoor sources. Again, focused primarily on indoor air. We have a particulate matter research program. I would be happy to take the list that you enumerated and get back to you on all of those, because I don't know all of them off the top of my head, but suffice it to say that we do have a very robust research part of the Agency.

In fact, research and sound science are the very core of the Agency. Without that we cannot make the kinds of decisions and determinations that we are required to make. So we are very sensitive to that issue, and are looking for ways to continually ensure that sound science is integrated at the onset of any decision-making process and to make sure that the research that we are doing is the very best that can be done.

[The information follows:]

Indoor Air Quality Technology Research

EPA conducts research on indoor air quality as a component of several larger multi-disciplinary research programs. These programs include efforts aimed at understanding: (1) the sources of indoor pollutants; (2) levels of pollutants people are exposed to indoors, particularly sensitive sub-populations; (3) health effects associated with indoor pollutants of concern (biological and chemical); and (4) techniques to reduce risks from indoor contaminants. Specific areas of research include studies to better understand the sources, causes and options to

mitigate childhood asthma; research to better understand the impacts of biological and chemical indoor pollutants on human health; and research to understand the relationship between outdoor and indoor pollutant concentrations and quantify exposures.

Additionally, as part of the FY 2003 President's Budget Request, \$75 million is proposed for Homeland Security research. EPA plans to work collaboratively with other federal agencies and the private sector on better ways to detect and contain biological and chemical warfare agents and bulk industrial chemicals in buildings, and research to improve techniques to decontaminate buildings once a contaminant has been introduced, and evaluate safe disposal of residuals. The Agency will also pursue an aggressive program to transfer all available and new information to those who would need to respond to any future building contamination events. Selected research activities to be pursued include development, testing, and verification of detection devices (technologies will be developed and evaluated for rapid detection and measurement of contaminants to support pre- and post-clean up monitoring and assessment, worker protection, risk assessment, and early warning of contamination events), studies to understand dispersal of biological and chemical contaminants in and around buildings, air cleaning/filtration and decontamination of rooms and HVAC ducts, chemical and physical methods for decontamination of indoor surfaces, risk assessments of decontamination methods, assessment of conditions for safe incineration and disposal of residuals, field testing of new approaches by first responders, and tools for rapid assessment of risks on site.

AIR QUALITY: LOWER MANHATTAN

Mr. Walsh. Given the intensity of the experience we have just had relating to indoor air, I have spoken with Congressman Nadler, whose district encompasses the World Trade Center neighborhood and Assembly Speaker Sheldon Silver, whose constituency also is just to the south of the World Trade Center. They have grave concerns about the health of those neighborhoods, and it would seem to me anyway, that this would be an ideal time to focus that research more--rather than to shop it out to 13 different centers. I am just not aware of a focus on it or more intensity to that research because of the experiences we have just seen.

Ms. Whitman. Well, that certainly is a point that I have actually just discussed yesterday with our Office of Research and Development. There is a great deal more we do need to know. We need to figure out the best ways to do it. We do have a specific task force that we have called together for lower Manhattan. I would just hasten to use this opportunity to add that we have taken over 10,000 air samples in lower Manhattan and in the environs.

We have been very cognizant of the concerns and the needs of the citizens, and we recommended from the very beginning that people who went back into their homes that contained a great deal of dust, get professional cleaners, and understand that they need to continually clean with a heightened sense of

attention, using the HEPA vac and the wet wipe. We have been working very closely with the City of New York in providing that information to citizens and to businesses in lower Manhattan. We have looked and done the air quality sampling. ATSDR did some sampling and found that the indoor air quality did not show significant elevated levels to cause concern of asbestos in the air or the other particulate matter.

In dust, however, they did find some elevated levels, and that would, again, bring us back to the point that we have been making continuously, which is, you need to clean in an appropriate way, and in fact you probably should get professional cleaners in when you first go back into a home. But as far as your concern of concentrating the work done on the research, I would be happy to work with you on that and have our science advisor, once we get him confirmed, work with you on that as well.

Mr. Walsh. We can't help you there.

Ms. Whitman. Oh, you have lots of influence.

Mr. Walsh. Maybe we can.

Well, if we could find a way to make sure that your other research priorities were met and work with you to provide some resources for this more focused research on indoor air quality, would you be willing to advocate and support that?

Ms. Whitman. I am certainly willing to work with you to see what makes the most sense. I would have to bow to the advice of the scientists of the Agency, because they are the ones who know best how to maximize the research that we are getting, and I am not a scientist. I would have to go with them.

Mr. Walsh. Thank you.

Mr. Mollohan.

BROWNFIELDS CLEANUP

Mr. Mollohan. Thank you, Mr. Chairman. Governor Whitman, the budget includes a doubling of funding for Brownfields cleanups to implement the new law passed in September, the total goes from \$98 to \$200 million, an increase for which you are to be commended and for which I suspect most Members of Congress will be enthusiastic, given the extent of the problem with pollution at industrial sites in many of our communities, certainly in my Congressional district.

Can you tell us how the newly expanded program will work and, in particular, how funds will be allocated to the States and to individual projects by EPA?

Ms. Whitman. We are in the process now of finalizing how to move forward with the program and how we are going to work with the States on these various programs. \$50 million in the funding will go to the States themselves. We have a grant competition that we anticipate an outreach and support of the Brownfields, there are a number of activities that we will be undertaking that include the programs themselves and the administrative expenses.

We are looking to work with the States to help identify those Brownfields that are the ones that can be most readily addressed through the monies that we are going to be providing them. They will have the opportunity to establish their programs to determine how they want to address Brownfield challenges in their States. We are going to have \$50 million to

fund new functions and activities that will be created with this budget, revolving loan funds that will be managed by the State, funding of insurance mechanisms to provide incentives for cleanup, additional funds for targeted Brownfields site assessment.

We are going to be working very closely with the States in providing them the technical assistance they need to better do the assessments, and we look forward to seeing a very robust program here.

BROWNFIELDS: PETROLEUM SET-ASIDE

Mr. Molloyhan. You said \$50 million was to go to the States themselves. There is a requirement in the law that 25 percent of the funding is to go to petroleum cleanup.

Ms. Whitman. Right.

Mr. Molloyhan. How are you interpreting that 25 percent? What base are you operating off of?

Ms. Whitman. The 25 percent is off the \$121 million that will be awarded in grants. The way we do it--the money that will actually go to the cleanups. The \$30.3 million 25 percent of the \$121 million.

Mr. Molloyhan. There is some disagreement about what that base ought to be.

Ms. Whitman. I know there are those who question, but this is the way that we have been doing it. That is kind of the traditional way that the agency has done it. That is off the money that actually goes in the grants.

Mr. Molloyhan. How will the petroleum program work?

Ms. Whitman. Well, for the first time, the public law now allows the cleanup of the petroleum sites within Brownfields area in conjunction with Brownfields assessment and cleanup. There would be \$30 million a year if the \$200 million is appropriated. For the first time this will allow us to get at things like gas stations, which form a bulk of the Brownfields, and allow for the liability protection as well as providing additional dollars to the States to be able to address these issues.

Mr. Molloyhan. So how is it going to work? Is it a formula program to the States?

Ms. Whitman. It is not a flat amount. It will be similar to the way that we have done Brownfields to date. It is modeled on the Brownfields program that we have had as a part of the Superfund program, which has been very successful as far as it has gone. We don't anticipate any dramatic changes to the current Brownfields program, because, as I say, that has worked well. What we have here, though, is an expansion of authority to these petroleum sites that we were not able to get at before. Of course, there is the liability protection, which I feel is going to be, in fact, the most important part of this program, because it will allow for more private sector dollars to come into play here. The \$30 million will be competitive for the petroleum.

Mr. Molloyhan. Be competitive----

Ms. Whitman. Competitive applications.

Mr. Molloyhan. That will be run out of EPA, not out of the States.

Mr. Walsh. Could you please identify yourself for the record?

Ms. Horinko. Marianne Horinko, assistant administrator for----

Ms. Whitman. Assistant administrator for Solid Waste Emergency and Response.

Ms. Horinko. The Brownfields program will include \$50 million that will go to the States, to develop their programs to provide liability protection and technical assistance for both petroleum and nonpetroleum sites. It is a general \$50 million and will be a formula grant to the States for all Brownfields sites. Of the \$121 million in grant money, 25 percent will be specifically earmarked for tank sites, and so communities and other eligible potential recipients will submit applications, much as they do now. We will have a competitive process for awarding those grants, but 25 percent will be specifically earmarked for underground storage tanks.

Mr. Mollohan. And run out of EPA.

Ms. Horinko. Yes.

Mr. Mollohan. And the \$50 million to the States, is that for administration?

Ms. Horinko. That will actually be for States to primarily strengthen their voluntary cleanup programs. The law contains a bar on EPA taking enforcement action where the States have actually developed voluntary cleanup programs that oversee Brownfields cleanups, and we feel that a critical part of making the law successful is ensuring that States have robust voluntary cleanup programs that really have the muscle to run programs that can oversee Brownfields cleanup.

So this \$50 million is really capacity building for State programs to oversee Brownfields so that we can feel confident that when States take action and declare a Brownfields clean, that these are good robust programs.

Ms. Whitman. And some of that money will also be used, won't it, Marianne, to help them identify their Brownfield sites and to assess those sites?

Ms. Horinko. That's right.

Ms. Whitman. The funds can be used to determine the amount of pollutant, the type of pollutant that they are facing, because that will have a big impact on potential use, future use of that site.

Mr. Mollohan. How did you decide how much money to put into the petroleum cleanup part of the program?

Ms. Horinko. I believe the 25 percent was a formula in the law.

Ms. Whitman. It was formula driven.

Mr. Mollohan. I know it is, but how did you decide which base to use?

Ms. Horinko. We consulted with our Office of General Counsel, and they indicated to us that using this \$121 million base is consistent with the way similar set-asides were interpreted in the Clean Water Act programs. I believe a similar approach is used in the Clean Water Act Revolving Loan Fund and other big grant programs. So it is consistent with the way we do business in other parts of the agency.

Mr. Mollohan. Thank you. Thank you, Mr. Chairman.

Mr. Walsh. Thank you. Mr. Frelinghuysen.

ANTHRAX CLEAN UP

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Governor Whitman, good morning. Let me echo the sentiments and remarks of Chairman Walsh and ranking member Mollohan in terms of the work of your EPA staff, not only here in Washington, but the good people in Region 3 who were on the ground immediately after September 11th, and they are still on the ground doing important things to assure public safety and welfare, do the air sampling. Some have suggested that you haven't been vigorous enough, but from what I heard--and I know most of your people from Region 3 live in the area, so they have a personal stake in helping, and this has taken a huge emotional toll, I know, on a lot of people. But I want to commend you and your staff for a lot of professionalism and compassion. If more needs to be done, we will support you.

Ms. Whitman. Thank you very much.

Mr. Frelinghuysen. And then you add in the fact that our State appears to be the origin of this anthrax situation. A lot of time and effort has been spent, certainly, in tracking that down, but reassuring a lot of people that--who were handling mail that--it has sort of gone off the radar screen, but from your agency standpoint, it never goes off the radar screen. From what I can gather, the laboratories in your area harks back to the 1940s, and I have been told by your Region 3 administrator, that that might be worthwhile to do some more investment. The burden on your agency is huge, and you are dealing with a pretty antiquated situation.

I would also like to thank you, since you were good enough to mention in your opening remarks, for coming up to New Jersey to my district to assist--a big assist in transferring a Superfund site from one Federal agency to another. You would think we were trying to move the mountain here. You would think agencies would be able to cooperate, and I want to thank you and your staff for confronting the virtual paralysis which was associated with that site and for moving that transfer along and accomplishing it.

SUPERFUND REAUTHORIZATION

I would like to focus, if I could for a few minutes--I know in your prepared remarks, in your testimony, you highlighted Brownfields. Many of us are concerned about the future of the Superfund program. So maybe starting with a budget, can you sort of review where we are going with Superfund? There is an issue of reauthorization. Where are we going in terms of the EPA's budget for Superfund?

Ms. Whitman. I would be happy to answer that, because I think it is very important. There has been a lot of discussion about what is happening with Superfund and some concern has been raised about the Agency's commitment to polluter pays as an approach. The budget is \$1.3 billion, which as I mentioned earlier in my testimony, is exclusive of Brownfields. That \$200 million for Brownfields is separate from the Superfund dollars and used to be part of it. So the \$1.3 billion is exclusively for Superfund.

\$593 million will come out of the trust fund this year for this year's budget, and about \$700 million out of general revenues. We are continuing to see about 70 percent of the sites cleaned up by polluter with polluter paying. That is not the same as saying that 70 percent of the dollars, it is the sites, because some sites are more expensive, and in fact, it may be more than that or it may be less. The important thing is that we continue to see real results here. The problem we have--and I know it is one that you share--is that the number of sites that will be completed over the coming year has dropped.

That number, has dropped not so much because of money and the trust fund levels, reauthorization or nonreauthorization of the trust fund dollars, as the drop comes from a number of different problems. I am very concerned about it. Some of them have to do with the fact that the most recent past history of Superfund has been focusing on sites closest to completion and completing those and not starting on some of the others. We find ourselves now in a position with a number of mega sites, very large, very polluted sites, that require a lot of attention and require a lot of dollars. That is slowing down the number of completions we think that we can achieve.

However, we are doing it--going as fast as we can. I have asked that a pipeline study be done, and Marianne is actually in charge of that. Within 3 weeks, she will have to do a study of how we move things through the pipeline. How are we targeting which are the most important Superfund sites? I mean, for instance, on a mega fund site, if there is one, part of it that is particularly hazardous to the surrounding community, should we clean that up first. Then, if the rest of it isn't so bad, stop and go to the other site where it is that intense?

We need to take a look at how we handle Superfund sites, whether we are doing it in the right way, and that should be ready to be submitted to me within 3 weeks. We also are going to launch a national dialogue with NACEPI on the future scope of the NPL and moving beyond construction completions to achieve more meaningful environmental outcomes.

SUPERFUND TAX

Mr. Frelinghuysen. But the public perception in the newspapers is that somehow the administration is backing off from the notions that polluters pay. That is not the case.

Ms. Whitman. No. That is not the case.

Mr. Frelinghuysen. They are somewhat forgetting the fact that the trust fund is running out of money, that Congress has enacted--because the taxes haven't been collected since December of 1995, to that--and we are not suggesting that those that have paid those taxes are polluters, but there is a certain percent of what you are using for revenue, which polluters are actually paying. Is there a dollar amount in terms of---

Ms. Whitman. \$1.7 billion last year.

Mr. Frelinghuysen. Well, in terms of what responsible parties are paying, is that the figure.

Ms. Whitman. \$1.7 billion is what responsible parties paid last year.

Mr. Frelinghuysen. I know that you and your predecessor, you more than your predecessor, have worked with Congress in terms of getting Brownfields legislation. What are we doing relative to working with authorizing committees on this issue in terms of requesting the renewal of the tax?

Ms. Whitman. The President did not include the renewal of the tax in the budget request this year. The feeling was that Congress has failed to reauthorize since 1995. We are continuing to fund Superfund at the same level as last year. And that is where the confusion comes in. People assume because the trust fund is winding down--I believe it will be at 28 million next year, which is--you know, we are going to have to find the money elsewhere. We have been----

Mr. Frelinghuysen. Well, that elsewhere is the discretionary----

Ms. Whitman. Right. But that still doesn't go to the polluter pays principle. As I said, about 70 percent of the sites are continuing to be paid for by the responsible parties where we can identify them, and that is critical. The other money is spent on those sites that we call orphan sites; ones where we can't identify the responsible party or where the responsible party has gone bankrupt, and we have no way of getting to them.

So we look forward to working with Congress. There are obviously concerns about the Superfund program itself, and a need for another look at it. Reform of Superfund has been an issue that has been discussed for some time: liability, clearing up the liabilities, giving some liability protection there, understanding, whether school boards are liable when they have sites that are in Superfund areas, those kinds of things.

And I would be happy to work with Congress on how we move that forward. But right now, the important thing is to understand that the same amount of dollars are going to Superfund as have gone in the past. We anticipate continuing to move forward with cleanups, but we do recognize another problem that really is one of how we have identified these sites and how big the ones remaining sites are.

Mr. Frelinghuysen. We have existing sites that need to be cleaned up, they need resources, and as you point out, larger sites appear to be identified and added to the list. And I may be speaking from the minority position, but we need to reauthorize the Superfund program. I think it is entirely appropriate.

Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Rodney.

Mrs. Meek.

BROWNFIELDS PROGRAM: LIABILITY PROTECTION

Mrs. Meek. Thank you, Mr. Chairman, and welcome back, Governor Whitman. Good to have you here.

Again, my favorite subject is Brownfields. Last year you promised this committee quite a few things about Brownfields, and guess what? You kept your promise. Thank you for that.

In my Congressional district, I have 19 Brownfields, and most of it is located in the older areas of my district. And

very little is being done about them, and it also causes sort of a catch-22 when it comes to the utilization of community development block grant funds, which is used quite a bit in housing and other things, but we can't get developers in there, because of the problems with Brownfields. And everyone is concerned about rebuilding these neighborhoods, one at a time, but it is very difficult, because certainly developers would rather go into the suburbs where it is much easier, there is no problem with Brownfields there.

So you asked for an increase last year, and you just told us there is money in the program, and you also said we needed to pass legislation, which we did. So now I would like to know what can you do with such a small amount of money to--in the inventories phase, someone has asked about this. Will you be able to coordinate with HUD in terms of implementing a Brownfields program? My major point is that we really need the Brownfields program to exist, particularly in the older urban areas.

Ms. Whitman. Congresswoman, I couldn't agree with you more.

Mrs. Meek. Excuse me. I want to tell you your region has worked very closely with us.

Ms. Whitman. I want to say that that is one of the reasons why we had such strong support from the mayors across the country for the Brownfields legislation that you all passed, and we are very thankful for that.

Let me just put aside my EPA hat for a second and return to my previous job as a governor. I think the biggest, most effective thing in this Brownfields legislation, to address the needs that you have brought up, is the liability protection. There is never going to be enough money. It is not a question of the Federal Government paying for all the Brownfields cleanup, but as we certainly saw in New Jersey, we were aggressive in providing legislation at the State level to offer incentives and to provide some protection for developers. But we could never offer them the surety that Superfund liability wasn't going to come in on top of them.

You did that with this law. You give them that sense that they could move forward, and if they had not had any kind of involvement with the previous contamination and under certain very limited circumstances, if it didn't migrate into another site or on to a Federal site and pose an immediate health hazard, they would not be held liable. That is what is really going to free up the developers. There are a number of them now that have begun to develop expertise in the area of Brownfield sites cleanup. That has become their niche in the market, and with the kind of protection that Congress has now given them with the Brownfields legislation, I believe you are going to see a great deal.

Having said that, we have requested a doubling of the amount of money for the Brownfields program to allow us to engage with the States in technical assistance and provide them the money to help do the kind of assessment on Brownfield sites that they need to do.

TITLE VI: CIVIL RIGHTS ACT

Mrs. Meek. Thank you very much. My next question has to do

with Title VI, the Civil Rights Act, and some of the complaints that EPA has been receiving long before you got there, governor. And they are still there. They are areas in which we really need protection for our children in our community, because they are chosen as toxic waste sites, and your agency gives them permits. And these permits give them a chance to build on these toxic waste sites so that it creates a big problem for people, particularly people of color in neighborhoods.

Now, I know that these complaints have been here for years, and I am just asking you for some further insight as to which strategy are you going to use in trying to resolve some of these complaints, and hopefully it will get a little bit farther up on your priority list.

Ms. Whitman. Well, Congresswoman, I have to tell you, particularly since our discussion last year, it has been something that has been at the forefront and environmental justice for new programs is something that is taken into consideration by the agency any time we make a decision. As of January the 31st of this year, the backlog of the Title VI cases had been reduced from 66 to 42. That is about a 36 percent reduction in those Title VI cases. On Title VII cases, we have reduced the backlog by 90 percent. While no decision on the merits have yet been issued, as a result of the task force operations that are underway, we expect to propose resolution on a number of the complaints in the next few months. We have assigned a task force to it. We have increased the staffing, the attention to this, and it has become a very high priority for the Agency. We are working hard to work our way through the issues that are involved in these various complaints.

ENVIRONMENTAL EDUCATION

Mrs. Meek. Thank you. Now, in terms of environmental education, I don't think it was a good decision to move that from EPA and place it under the National Science Foundation. I don't think it will get the priority treatment that your agency gave it. Of course, I have a feeling it came from EPA--not from EPA, but from OMB, and I am not asking you that question, Governor. I just know that that should have been--remained under your agency, because that environmental education is so important to the children and to the people in the communities. And it is my understanding, Mr. Chairman, that it is going to stay under this committee anyway--Mr. Chairman?

Mr. Walsh. Yes?

Mrs. Meek. I understand that environmental education is going to stay under the reaches of this committee. So I would just like to ask you to keep it in here when it comes here.

Mr. Walsh. I thank the gentlewoman. I have questions about that issue, too, and I agree that the program has been well run by EPA. We need to hear more about the issue.

Mrs. Meek. Yes. Thank you. You heard that. That is a promise.

Mr. Walsh. I didn't promise anything.

Mrs. Meek. Thank you very much.

Mr. Walsh. A promise is a promise if it is a promise.

DEEP WELL INJECTION

Mrs. Meek. You have helped us with our deepwell injection in Florida. We are the only State with that kind of wastewater treatment. And it is becoming a little bit of a problem, but not enough for me to wave a red flag, but we want to continue to--it appears to me that there needs to be some kind of concentrated look at this, in that in Florida, some cities and municipalities and jurisdictions are using one way of treating that. Others use it another way. And it could become a problem. So if you will ask your research people to continue to look at the deepwell injection, it will help us tremendously, and I thank you very much.

Ms. Whitman. Congresswoman, on that, let me just say we expect to make the draft relative risk assessment report, which is a relative risk assessment of wastewater management operations for treated effluent in South Florida, available for public comment this Spring, and complete the assessment in the Summer of 2002. We published a proposed rule on July 7th of 2000, and we are looking forward to completing that for the Florida class 1 wells.

LEAD POISONING

Mrs. Meek. Thank you. And thank you for your treatment of lead poisoning. That is a big problem in my district, and particularly among the poor communities and the children. I was pleased to read in your budget justification that some of your lead activities will lead toward a stronger contribution to eliminating lead poisoning of our Nation's children. I think that is a very worthwhile goal, and thank you.

Ms. Whitman. We definitely made that a goal, and it was a charge that I gave one of our advisory committees. That is an entirely preventable problem. We should be able to deal with lead poisoning as it affects our children and as it affects all of us.

I would like to just comment on the Star program----

Mrs. Meek. Yes.

Ms. Whitman. It is being moved to the National Science Foundation to consolidate the educational programs, but the funding for the minority academic institutions still stays with us and will continue to stay within the Agency. I just wanted to clarify that for you.

Mrs. Meek. Thank you. I yield back, Mr. Chairman.

Mr. Walsh. Thank you. Mrs. Northup.

Mrs. Northup. Thank you, Mr. Chairman. Welcome----

Ms. Whitman. Administrator.

Mrs. Northup. Madam Administrator. I want to say Secretary.

Ms. Whitman. We would love it if you could----

VEHICLE EMISSIONS TESTING

Mrs. Northup. No. I have never quite understood the distinction, but clearly you--much of what your department does is of great interest to the people across this country and in my community.

There is a lot of focus these days in my community about

the vehicle emissions testing program, and I think there is a lot of debate going on currently right now in our State legislature where they are actually being asked to take some actions, and a lot of misinformation. So I would sort of like to start with that and ask you several questions.

There is a strong belief in my county that improved air emission controls on new cars, that gasoline additives that have improved air emissions, and the local law that requires a minimal investment by older cars, has reduced the effectiveness and the benefit derived by the VET program, the vehicle emission testing program, to the point that the benefits no longer outweigh the time and cost. And I just wondered if you would tell me, what would happen if our State legislature eliminated the VET program entirely?

Ms. Whitman. Well, Congresswoman, in the Louisville area, they are now in attainment.

Mrs. Northup. Yes, they are.

Ms. Whitman. Therefore, there is not a requirement that they implement that program. The requirement under the Clean Air Act is that they be able to show us a modeling plan that guarantees their continued attainment for a 10-year period. How they choose to reach that attainment is really up to their discretion, because they are in attainment now, unlike some other areas, that unfortunately Congressman Frelinghuysen and I know it only too well. Of 21 counties in New Jersey, 18 were out of attainment, so we were told we had to have the enhanced inspection maintenance. But in Louisville, because they are in attainment, they don't have to. We are not enforcing that, except that under the Clean Air Act, they do need to be able to show a modeling plan that would show they can stay in attainment for the next 10 years.

Mrs. Northup. So if the legislature cancelled the program, we would expect that our State would have to go back to the drawing board to--in a sense--enact a new SIP program, a State Implementation Program, that would capture the benefits that have been captured by the VET previously in order to stay in attainment.

Ms. Whitman. Exactly.

Mrs. Northup. Would they have some time to do that? I mean, let us say the legislature canceled the program in the next 2 weeks. Federal highway dollars don't stop flowing in the next 2 weeks, do they?

Ms. Whitman. No, they don't. And I know Region 4 has been working closely with the legislators to try to work our way through this, working with the department--I don't know whether they are called the Department of Environmental Protection or the Environmental Quality Agency--but we have been working very closely with the State to try to keep them from getting into any kind of a situation where you would have an immediate negative impact. But clearly it is an issue. We are driven by the law; we can't put people at risk. We need to ensure that they can provide that certainty about keeping the air clean, and the better way from our perspective to do it would be to have the SIP plan reworked and have some indication prior to an elimination.

Mrs. Northup. I think the problem is that they have not been able to get any cooperation with the State drafting a new

SIP program. I mean, the truth is only Jefferson County cars, which Kentucky has 120 counties, that gives you an idea of how small a county is in a geographic area. So many of the people who commute to and from work into Jefferson County, which is the only county that has to have the testing, actually bring cars that are untested. So nobody else in the State particularly minds that Jefferson County has a vehicle emissions testing program. Jefferson County residents feel they are bearing the burden that should be more widespread. So I guess my question is if the legislature eliminated the vehicle emissions testing, then in a sense you would be calling upon the State. They would have to draft the time----

Ms. Whitman. We would give them time. We would not immediately impose the sanctions.

MOBILE 6

Mrs. Northup. Okay. Let me ask you further, I understand that about one-sixth of the benefits we derive from all of the actions we took to get into compliance come from the vehicle emissions testing program. So that would be about 16 percent. There is a new model, MOBILE 6, that is coming out. To date, communities that have run the benefits of their current vehicle emissions testing under the new model, do they get an increased number of credits or a decreased number of credits?

Ms. Whitman. I will get Jeff Holmstead, the Assistant Administrator for Air and Radiation to answer this question. This is too technical for me.

Mrs. Northup. There is a new model we are going to be using at some point; is that correct?

Mr. Holmstead. That is correct, MOBILE 6.

Mrs. Northup. Would we expect, based on communities that have already run this model based on their current VET test, do they get more credits or fewer credits for their vehicle admission testing based on the new model?

Mr. Holmstead. The model is highly specific on the mix in different areas. So I think we all need to understand that. But in general, the new test shows that cars are more durable and get better performance than we previously thought, which is good news. The bad news is it suggests that these sorts of vehicle I/M programs don't give you as much credit as we previously thought.

Mrs. Northup. So if we get 16 percent of our sort of compliance credits right now, it is probable maybe that we would get fewer than that and we are going to have to put in place in the SIP program anyway, I take it, new initiatives to stay in compliance.

Mr. Holmstead. That is correct. We would certainly use the new MOBILE 6 model, in terms of looking at the benefit for these sorts of programs; but I think as you explained, the key thing now is that the State needs to have a maintenance plan. I think we are prepared to work very closely with the State to do that, whether it is some sort of I/M program or some other program that would get equivalent reductions.

Mrs. Northup. And I hope you will. I have to say that from my own experience, I have lived there through the entire time, I think that the VET program was very popular because it was very clear to all of us who lived in Jefferson County that our air needed to be cleaned up, and it is not just something you measure with highly technical equipment. You can see all the way downtown in my community these days in the middle of summer, and there is great support for the effects of this. The decrease in support is coming from the fact that more and more people's cars are passing. They are aware that they are paying a high price for their cars to get this improved equipment. They see more and more people coming, commuting into our county. It would be highly politically unpopular to get those counties to adopt a VET program, and it is becoming very unpopular, and so I am eager to know what our alternatives are and how we can responsibly address the very strong support for clean air with what is the best way to get there.

Let me ask you, I am aware that there are some communities and some States that have dropped their vehicle emissions testing, where have they gone to redraft their SIP program and capture the number of credits they need, not just so they stay in compliance with the EPA but so that they also have the clean air, which is the whole point of it?

Mr. Holmstead. There are a whole variety of things that States have done, though I can't tell you specifically for the areas where States have eliminated I/M programs, but there are other sorts of vehicle programs. There are fleet programs, that are retrofitting existing fleets of school buses. There are a lot of things that can be done.

Now, 16 percent or whatever the number is, is no small feat. And as you well know, I think the folks in your area have done an excellent job of looking for the kinds of programs and have been very effective in cleaning up the air. But there are a variety of things, and we would be quite happy to sit down with you or folks in the State to walk through the options that they might have to replace the reductions that they would lose if they were to eliminate the I/M program.

Mrs. Northup. Have you all done any sort of cost-benefit analysis with any of the States that have dropped it, comparing what the total cost is for the VET program that was eliminated, with the cost that other entities are required to pay in order to absorb the responsibility for clean air?

Mr. Holmstead. I am sure we have, but I don't know off the top of my head how those programs stack up. One of the things that is difficult in looking at costs and benefits is looking at the cost to people just in the inconvenience of using up their time. And so when we look at the costs of our different programs, in some cases you can readily identify what the cost is and we can measure how much people have to pay for the programs, how much they have to pay to fix the cars that don't pass, but actually costing out the hassle factor is a hard thing to do.

Mrs. Northup. Right.

Mr. Holmstead. I think we have made an attempt at that, and we would be happy to provide you with some estimates of the costs and benefits of this program compared to other programs that are available.

[The information follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mrs. Northup. You might just be interested in what has happened in my city, is some of the possible adjustments we could make to the VET that would make it less onerous; for example, having cars tested just every other year, or new cars not tested, has brought a suit from the company that does it, saying that reducing his income is something that county would have to make up those dollars. So you know, it is----

Ms. Whitman. It is not an unusual case, unfortunately. It depends on the contract. We have seen the same thing.

Mrs. Northup. Well, the contract says if the district takes any actions. It is not clear if the legislature eliminated the program outright that there would be anybody required to meet those revenue expectations. Thank you.

Mr. Walsh. The gentlelady's time has expired.

Mr. Price.

RESEARCH TRIANGLE PARK FACILITY

Mr. Price. Thank you, Mr. Chairman. Governor, welcome back to the committee. I appreciate your testimony. I want to also extend a special welcome to your new chief financial officer, Dr. Linda Combs, who came to you from the Treasury Department, where she was Assistant Secretary for Management. But before that, as you probably know, she has a respectable North Carolina pedigree.

Ms. Whitman. I couldn't tell it from the way she speaks.

Mr. Price. Hard to figure. She was the education adviser to our Governor, she served on the Board of Education in Winston-Salem and was an executive for Wachovia Bank, so she is well-equipped for this new assignment and we welcome her as well.

Governor, can you give us an update on the status of your move into the new Triangle Park research facility? I think we are becoming close to getting finished with that. That is the culmination of quite a few years on the part of EPA and this committee, 9 years of appropriations on this committee, as a matter of fact. I have heard through the grapevine that you might be able to come down to the EPA facility for a dedication ceremony sometime soon, possibly as early as May, which of course would be a fitting observation of Environmental Science Month. We would love to see you do that, but in any case would appreciate an update on how things are going.

Ms. Whitman. Certainly. That is our target. I very much look forward to that. It is 96 percent complete. It is a 1.2 million square foot facility and we are very excited by it. Obviously the scientists are extremely excited about it. The occupancy on the campus currently is about 50 percent. We are moving into it incrementally, 1,000 of the estimated 2,000 RTP staff are in place, and we are hoping to have full occupancy by the first quarter of the next fiscal year. I am very hopeful that it will be a May time frame and I will be able to go down and cut a ribbon.

HAZARDOUS WASTE DISPOSAL BY ACADEMIC INSTITUTIONS

Mr. Price. Good. We will look forward to that.

Let me move on to the question of hazardous waste disposal by academic institutions, a special case under RCRA which I am sure you are familiar with. In its fiscal 2001 report, this committee, directed EPA to participate in an initiative to demonstrate consensus best practices for managing hazardous waste in academic research institutions and asked you to report back to the committee with the results. The report by the participating academic institutions has been completed, and I understand that EPA's contribution is now pending at OMB.

The report from the academic institutions concludes that the industry-oriented regulations of the Resource Conservation and Recovery Act are in fact ill-suited for the academic research setting. As you know, part of the problem here has been that different EPA regional offices and different States seem to have significantly different interpretations of RCRA requirements for academic research labs. The report recommends that EPA clarify for its regional offices and for States and universities how much discretion exists under RCRA to permit the use of the performance-based best practices recommended in the report. It also recommends that EPA encourage the adoption of these best practices.

As I see it, there are two critical components to the best practices developed through the initiative. First, the environmental health and safety professional within the universities should make hazardous waste determinations as opposed to the individual lab workers. Secondly, these same professionals should be allowed to treat waste in order to eliminate their hazardous characteristics, thus reducing the overall volume of waste as opposed to simply disposing of the waste.

So that leads me to two questions. One, does EPA concur with the conclusions of the report that implementing the performance-based consensus best practices developed through the initiatives would in fact result in improved environmental stewardship that would exceed existing requirements while significantly reducing hazardous waste volume? And, secondly, is EPA planning to issue administrative guidance to regional offices and to States and to universities clarifying that many or all of the consensus best practices described in the report are compatible with RCRA regulations? Specifically, does EPA concur that this guidance should allow and encourage environmental health and safety professionals within universities to make the hazardous waste determination and to treat wastes, where possible, to eliminate their hazardous characteristics and to reduce their volume, reduce the volume that requires disposal?

If so, when will this guidance be issued?

Ms. Whitman. EPA supports developing effective alternatives for safely managing hazardous wastes at academic institutions. We believe that is entirely appropriate, and we are working closely with the stakeholders to develop a RCRA policy that reflects that need. We are also currently developing guidance that will address the specific concerns of academic institutions by clarifying EPA's policy pertaining to laboratory waste and operations. Of course we feel, as I think

many people do, that one of the priorities should be waste reduction and recycling. And in fact, the Office of Solid Waste and Emergency Response in their Waste Reduction and Energy Recovery Initiative, to be announced in the very near future, will include how we can institute a performance-based approach to reuse and recycle of laboratory chemicals. We take this to be a separate challenge, an important challenge, and we are addressing it as such.

Mr. Price. Do you anticipate that these best practices will or may require some regulatory changes?

Ms. Whitman. At this point in time, until we have addressed all the concerns that OMB had on the final report to be transmitted to the Congress, we are still working our way through that. I am not sure at this point in time whether we think we will require statutory change or not. We do not know that yet.

Mr. Price. Is there anything you would like to add about the problem that universities have encountered in terms of variations among the regional offices in their openness to some of these best practices and some of the differences between regions as to the inclination to require that the letter of the RCRA rules be followed?

Ms. Whitman. Well, Congressman, one of the challenges that we face at the Agency is sitting in Washington, establishing national models that are perceived to be the same, and must be the same, and implemented in exactly the same way everywhere. The standards for safety, what is safe for human health, what is safe for the environment are the same.

I am trying to allow the regions to have some flexibility in dealing with the particular challenges that they find in that region. However, when you are talking about universities and university laboratory settings, those are pretty standard. What they are dealing with, and what they have to address is pretty standard. We are looking right now at ways that I indicated to develop the kind of guidance that recognizes that they are different from other facilities where you have these kinds of chemicals and where you have this kind of activity going on, so that there is at least that recognition that the standards for what is safe to be put into the atmosphere and how we deal with chemicals is the same. How you address it when you are talking about a research institute and laboratory may be different than it is with a chemical company, with the manufacturer, and that kind of flexibility is going to be recognized.

Mr. Price. Right. The evidence is apparently that some of the best practices that are being developed in universities around the country do, in fact, offer more in the way of hazardous waste volume reduction than standard practices. In a situation like this, the flexibility or the variation among regional offices is seen as something of a threat in that what is developed in one region in the way of flexibility and a cooperative working arrangement might in another region be much more rigid, much less flexible; and the prospect of a change in administrators or change in administration could be seen by these best practices institutions as somehow threatening, and making it more difficult to work out ways of handling these wastes.

Ms. Whitman. Actually, the report I mentioned to you, the Waste Reduction and Energy Recovery Initiative, is going to be really a guidance document for the regions. That is why it is important that within that there be special recognition of the challenges to research universities.

Mr. Price. Thank you very much. Thank you, Mr. Chairman.

Mr. Walsh. Thank you. Mr. Goode.

TOTAL MAXIMUM DAILY LOADS STATUS

Mr. Goode. Thank you, Mr. Chairman. First I would like to ask the Administrator about TMDLs, the same as last year. Can you give me the status of what you are doing on them?

Ms. Whitman. We are continuing to work hard to come up with an appropriate standard. As you know, we gave some extra time to the whole research that is going on and to the review. We are continuing to work on that. We have got a number of comments, thousands of comments.

Mr. Goode. A lot from Virginia.

Ms. Whitman. Lots of comments on it, and we are working our way through those comments, which of course is required in rulemaking. So we are still in the process of trying to go through the comments and see how they impact on the proposed rule and what we need to do in order to ensure it is something that is workable and responds to the needs. It is one of the concerns I have that sort of goes to Mr. Price's question on a very different level: that we set one standard in Washington for everyone, but we have to be or should be cognizant of the impact and implementation on various parts of the country because it is very different.

Mr. Goode. I would just ask that you continue to keep in mind there are a number of rural counties in Virginia that the levels of pollution in the water comes more from wildlife than anything else and that some of the nitrogen in the water comes more from the yards in Fairfax County for the Potomac than it comes from the farms in far western Virginia.

Ms. Whitman. And we are working very closely with Virginia's Department of Environmental Quality on how to address this issue. They have been, as you know, very vocal on this and have expressed some very legitimate concerns. We have been working very closely with them on addressing the issue, how to solve the problem of high-quality TMDL in less time and at less cost.

Mr. Goode. With regard to the rules that were done by EPA shortly before you came on board, I would like to read this statement about my opinion: These rules should be reviewed, looking at cost-benefit analysis, impact on small business, impacts on States, impacts on energy supplies and whether there are options to achieve the same environmental goals in an easier, less costly manner and use of sound science. In my opinion, we don't need a whole new expensive Federal program set up when we can achieve the same goals more efficiently and less costly with existing programs.

Can you give me assurance that these last-minute rules which you encountered are going to go through a thorough regulatory review process before anything happens?

Ms. Whitman. Congressman, we are not planning to implement the 2000 rule. We intend to publish a new rule in the Federal

Register, which we expect to have ready in late spring, mid-2002. We will take public comment on that proposal and promulgate a revised final TMDL rule in late spring of 2003. But we are continuing to enforce the TMDLs that are currently in place, because there is an ongoing TMDL program in place. So I don't want any confusion on that. But we are not planning to implement the 2000 rule.

Mr. Goode. Apart from TMDLs but just water rules in general, the same thing?

Ms. Whitman. It depends, obviously, on the rule. We are not going forward with all rules, but we are focusing through all of our efforts on water to try to find ways that recognize the economic impact of what we do and the fact that economic impact affects behavior. It has a way of having unintended consequences that may jeopardize people's health--the very thing we are trying to protect--if we don't understand all the consequences of a proposed rule.

Mr. Goode. To switch back to the TMDL for a minute, in some of the counties in Virginia and I know in other States, we have a number of small dairy farmers, and some of these TMDL rules just kill them. And I mean, I for one like fresh fluid milk. I don't want powdered milk from another country, and I hope we will do all we can to work with the local dairy farmers.

Ms. Whitman. Congressman, as someone who drinks the milk produced by our New Jersey cows, I couldn't agree with you more.

Mr. Goode. Mr. Chairman, I also would like to submit a few questions for the record and have the Administrator respond later, if that is all right.

Mr. Walsh. That is absolutely all right. Without objection.

Mr. Goode. Thank you, Mr. Chairman.

Mr. Walsh. Mr. Hobson.

TREMONT, OHIO CITY LANDFILL

Mr. Hobson. Governor, nice to see you. I have got a couple questions for you. Some years ago I had a hard time with a previous Administrator, getting her to look at a landfill in my district, and finally they began to look at it. You know, it is funny because usually Congress people try to keep the EPA out of their district this is one time when I tried to get them into my district. I finally got them into it, and I am pleased that Region 5 is making progress in evaluating the Tremont City landfill site.

In a public briefing held a few months ago, your regional staff and four of my constituents said all US EPA investigation activities are complete and the draft report is being prepared. On the enforcement side, I understand the EPA has identified the potentially responsible parties who dumped in the barrel fill, and you are working with them to begin the process of a remediation facility study. I must admit this process is taking quite a while, and we are on 3 years now, and I guess my main question to you is, what is the EPA doing to reduce the time and cost associated with the site characterization and site remediation activities? As I look at this chart that the EPA sends out, it will be 2036 before we really get anything completed in this, and I don't think the constituents want to

wait that long to get this stuff done. And I know I am not going to be around, but the problem with this is this sits right over an aquifer in our community, and how it ever got sited here is beyond my dreams, but it did get sited, and I think we need to see how we can speed up the timetable on this. Do you have any thoughts on that?

Ms. Whitman. Actually the region expects that the PRP action will begin by 2005, that remedial action construction will start in 2005. And as you know, the landfill has been closed and those post-closure activities are being done by the PRP under the supervision of the EPA. So they are trying to make sure that the public is protected, but the actual remedial construction is due to start in 2005.

Mr. Hobson. The only other comment I would make on this is there seems to be a continuing effort on the part of certain people to re-permit in this area, and I think we need to be very cautious about any re-permitting or permitting where there is an aquifer situation, because once the aquifer is damaged or penetrated, the costs and the ability--and this aquifer runs all the way down to the Dayton area, not only the Springfield region, but it could be immensely costly, and so I would hope that the State and the EPA all would continue to monitor this to make sure that we don't inadvertently do anything that would cause a problem here in the future.

Ms. Whitman. Absolutely.

PESTICIDE TOLERANCE FEES

Mr. Hobson. I have one other question at this moment that I would like to ask about. It is in a totally different area, so I am switching on you. I see that the EPA anticipates collecting \$59 million in pesticide tolerance fees in fiscal year 2003; however, you are only obligated to spend \$15 million. Your budget justification states the remaining collection will be used at some future time. Since our farmers and consumers are the ones that will bear the increased cost of these pesticide tolerance fees, I am interested why the EPA would think it is in the best interest of the American people to collect \$43 million more than necessary, and do you have any specific plans for spending this money in the near future?

Ms. Whitman. Congressman, I hadn't known that we had anticipated collecting that much in the tolerance fees. Steve, you are up on this. Steve Johnson, who is head of the Office of Prevention, Pesticides, and Toxic Substances.

Mr. Hobson. We would all like to see money, but----

Mr. Johnson. Mr. Congressman, yes, the----

Ms. Whitman. It is a complicated fee structure, let me put it that way. There are a number of different fees.

Mr. Johnson. Yes, there are a number of fee issues. And right now the current statutory authorities that we are operating under and the President's budget anticipates a collection of tolerance fees, and there are two components to the tolerance fees. One, a fee is associated with new tolerances for new products coming on the market. Second, a fee is associated with reassessing of old tolerances. And current legal interpretation is that we are not only authorized but directed to collect fees for work that has been done, so-called retroactive work. I think it is an area that

is still controversial. It is a legal issue that the Agency is currently evaluating. But, as the budget is currently constructed, you are correct that this \$58 million does contain this retroactive fee. Those fees are then put into a revolving fund; so they are not, if you will, going by the wayside or being wasted, but there are----

Mr. Hobson. Are you a lawyer?

Mr. Johnson. No, I am not.

Mr. Hobson. You talk like one. I was worried we are going to get to the number there, whether the number was correct or not. See, I never admit I went to law school or I am a lawyer, because I lose votes when I do that. But what I am concerned about----

Mr. Walsh. It is on the record now.

Mr. Hobson. I know it is on the record now. We have a camera here, too. I am just concerned that we have got money here that was set up, and now the consumer and farmers who will tell you they are having a tough time, and then you have got these fees that Virgil was talking about, that now the farmers are now complaining about because it is coming down to their streams where they have got to do all this. And I don't worry about these rotating funds or where that money goes. We will have to audit that, too, I guess.

I don't want to do that. I would like to see if we could look at the legislation and see if we have to keep taking that kind of money, because if I remember correctly, the subcommittee allocated \$17 million in the 2002 pesticide reregistration and maintenance costs while prohibiting an increase in tolerance fees. And I guess you might have said this, but could you explain why the EPA, despite these past prohibitions, has allocated for an increase in the cost of these tolerance fees, if that is correct?

Ms. Whitman. Hope springs eternal. As you know, we haven't been allowed to collect those fees since 1999. The total cost of the fee is a question of what the program demands of us, our ability to review new pesticides, get them into the marketplace, available. Many times the new pesticides are less expensive for the farmers. They require less per application for the farmers, but we need to go through a process to ensure that they do what they say they are going to do. The pesticide fees are the way we fund the program, but we have not been collecting these fees, which is why I was a little thrown off by the extra money we would be getting. That one I hadn't heard because we have been prohibited from finalizing the rule. But we keep hoping, because we feel that that is the appropriate way to pay for the kind of work that needs to be done in order to get the newest and most environmentally protective pesticides on the market.

Mr. Hobson. But you are going to get more money. You say 58, we say 59, but it is in that range.

Mr. Johnson. If we are authorized to allow us to begin collecting fees. Currently, right now, we are prohibited this year from collecting any tolerance fees other than the current level which is about \$1 to \$2 million per year. When the Food Quality Protection Act was passed in 1996, it required the Agency to collect the full costs associated with tolerance assessment, both for new and old. And so that means a major increase for a particular chemical company, for a major food

use chemical, currently they pay about \$30,000 for tolerance. That is less than one-twentieth of the actual costs associated with the Agency doing the assessment.

And so therein lies, in one sense, the difficulty; and so we continue to collect the \$1 to \$2 million, which is only a portion of the \$30,000 per tolerance. The full cost is significantly more money and that is how that \$58 million is derived. But as Governor Whitman has said, we have not been authorized to collect any of those fees. The only ones that we have been authorized to collect is the \$1 to \$2 million per year at this point.

Mr. Hobson. So basically in your budget you are anticipating that you might be authorized to begin collections; is that----

Mr. Johnson. That is correct.

Mr. Hobson. Thank you very much. Thank you, Governor.

WASTEWATER TREATMENT PROCESS: ONONDAGA LAKE

Mr. Walsh. We will begin the second round, and I would like to use this opportunity to talk about a specific wastewater treatment process, and maybe we can get somebody within your staff to comment on it. But leading up to that, as you know, I have been very interested in the reclamation of Onondaga Lake, which is in my constituency, partially in the city of Syracuse. And as you know, I would love to have you come up and take a look at the project. It has been a very expensive project, but it has strong partnership from the State and the local government and with the private sector. Honeywell, which owns the former Allied Chemical site on the lake, is negotiating with the New York State Attorney General for a very substantial settlement, which would include remediating all the toxins, including mercury, that they put into the sediments in the lake and the environs. There has been no agreement on the sediments yet, but, as you know, the sediments can be a ticklish issue.

In any event, hundreds of millions of dollars are being spent to reclaim this very valuable resource and turn what was our community's greatest debit into its perhaps greatest asset. Because of the expenditure of public money to reclaim this resource, there has been a tremendous increase in private spending on the lake and the area around the lake. The lake, because it was so polluted and it is a Superfund site, never encouraged the development of the properties around the shoreline. So it is entirely encompassed by public property, which is really a marvelous development if you think about it, because it belongs to everyone in the community. So we are in the process of reclaiming it and trying to do an environmentally sensitive redevelopment of it, and it is a cause of great interest, if not pride, yet in the community.

But the point was, one of the aspects of this project is, as a CSO project, closing off combines through overflows in the two major streams that flow into the lake, one of them flows right through the city. So we are closing off CSOs and taking that wastewater that combines storm and sanitary sewers and treating it for pathogens and then putting it back into the creek.

There have been a number of proposals on technologies. One

of them obviously is storage. And when you create storage, you can then wait until the storm subsides and the flow reduces, and then you can pipe it down to the Metro plant which is under major construction right now, about a \$140 million construction plan to reduce nitrogen, phosphorus, to get it to clean water standards. The County believes that they can reach those standards.

But an interesting proposal was made to me by a local entrepreneur who has developed technology that I would like, if you could, to have one of your experts comment on it, and the idea is you take this stored water which is primarily storm sewer runoff from snow melt or rainstorms that does mix with sanitary in large-volume events, and pump it out to a remote area. Actually, it would be on these former Allied Chemical waste bed sites. You can only do this in cold weather, by the way and Syracuse has plenty of cold weather. That is one thing we have lots of, and you have to have a certain temperature in order to make this work. But they run it through like, if you have ever been to a ski area, snow-making equipment, and there is apparently a filtration process along the way, just a very simple filtration process to remove most of the solids, and then you just run it through this atomizer. It is working in, I believe, Westport, Ontario which also has lots of cold weather. It may be one of the few advantages that the Northeast has over the rest of the country, lots of water, lots of cold weather. But in any event, this atomization process of the water destroys pathogens.

Just to comment--they are doing this, and I had my staff do some work on this, and I am going to review the memos. I haven't seen them yet--but just to comment if you have heard of this technology and what you think of it.

Ms. Whitman. I'll ask Diane Regas to speak to whether she has heard of the particular technology to which you refer or not. We are seeing many more innovative technologies coming to the fore to address a host of problems, particularly when you are talking about water, drinking water, wastewater. This is an area of real concern where a lot of investment is being made. We are very excited about that and trying to do as much as we can to move technologies forward. But Diane, I don't know if you have heard of this.

Ms. Regas. Mr. Chairman, while I haven't heard of this specific technology, we would be very interested. We work with some of the challenges of dealing with combined sewer overflows, and the pure volume of water that can be contaminated because of combined sewer overflows or sanitary sewer overflows is of concern. You are absolutely right that pathogens is one of the major environmental concerns with those. So a lot of communities have tried innovative ways of dealing with them, and we would be happy to come up and take a look or visit with the folks who are coming up with this technology.

Mr. Walsh. Apparently it somehow separates out nitrites and phosphorus. So there is a residue because it creates a big pile of snow, obviously, and then as it dissipates in the spring, it leaves a residue. And what is neat about it if it works is that this area that I am talking about is a former waste bed site. It was a plant that broke down salt, NaCl, and created

byproducts and industrial cleansers and so forth. But it very basic, alkaline. And this residue, it enriches this waste bed area and it becomes very fertile and you can grow grasses and plants and so forth. So it sounds great. It is almost too good to believe, and usually if it is, it is. But I would be very interested in having you take a look at it.

Ms. Whitman. Certainly. We would be happy to do that.

Mr. Walsh. Thank you. Mr. Mollohan.

SUPERFUND TAX REAUTHORIZATION

Mr. Mollohan. Thank you, Mr. Chairman. Governor, do you support the general principle that polluters should pay to clean up toxic sites?

Ms. Whitman. Absolutely.

Mr. Mollohan. Last week in a television interview, you indicated that the reason for the use of general funds to pay for cleanups was Congress' failure to renew the tax. That statement left the administration's position on renewal somewhat vague, and the President's budget does not deal specifically with the tax question. In the budget documents submitted by OMB in February, however, there is a simple statement that, and I quote, ``The budget does not propose reauthorization of Superfund taxes,' ' end of quote. The statement was buried in staff papers, however, which may or may not represent the administration's policy.

I am asking you, can you tell us whether President Bush is opposed to extending the Superfund tax and, if so, why?

Ms. Whitman. The President did not include the reauthorization of the Superfund tax in this budget. That was based on two premises: one, that it had not been reauthorized since 1995 and the will of Congress seems to be that it not be reauthorized; and two, the feeling that it was time to move forward with what has been called for by a number of people, which is to take another look at Superfund to see what needs to be done, if anything, before reauthorization. Then to look and see exactly how we are funding the program to make sure that we have the right processes in place, that we are in fact targeting the right industries.

Things have changed since the Superfund tax was first imposed and there are two parts to that, as you know, but reauthorization was not included in this budget.

Mr. Mollohan. Right. Understand, though, I am trying to take the measure of his attitude with regard to reauthorizing this tax, and the fact that the Congress has not initiated it doesn't dispose of the question of what is his attitude toward it. Has he requested a reauthorization of the tax?

Ms. Whitman. He has not requested a reauthorization of the tax.

Mr. Mollohan. Does he intend to do so?

Ms. Whitman. You would have to ask OMB.

Mr. Mollohan. OMB?

Ms. Whitman. Well, ask the White House or--all our budgets go through OMB to one point, but they go to the White House and that is a decision by the President.

Mr. Mollohan. I understand. And you are intricately, I would imagine, involved in the process.

Ms. Whitman. The feeling at this time is that since Congress is disinclined to reauthorize the tax. The President saw that as an indication that there was some concern with the program, which he shares, and a desire to move forward with Superfund reauthorization, to take a look at Superfund to see what needs to be done to see what we can do about liability concerns, and what can we do to make sure Superfund is working in the way it was intended to work. Then perhaps at that time take another look at whether or not it is appropriate to reauthorize a tax of any sort.

Mr. Mollohan. Have you made any recommendation to him on this issue?

Ms. Whitman. No, I have not.

Mr. Mollohan. Do you have any recommendation for him on this issue?

Ms. Whitman. At this point I do not, until we see where Superfund is going to go overall.

Mr. Mollohan. Well, the President is wonderful at providing leadership when he wants to provide leadership, bold leadership, as he has evidenced with regard to the war on terrorism. If he has any inclination toward reauthorizing this Superfund tax on polluters, which would evidence his embracing the principle as you have here, that polluters should pay, then he should provide that leadership by least making a request to Congress.

Ms. Whitman. Well, Congressman, I think the important thing, and one of the concerns that I know the President has had about the way the Superfund tax was imposed, is it is not all on polluters. It is on everyone in segments of the industry, and on the industry, so that even those who have the best of environmental records are also paying it.

Mr. Mollohan. Calibrating that factor into a new authorization would be fine. But if we are unfairly taxing a few polluters, you must think it very unfair that the general public should pay through general revenues for these cleanups, which is what is going to be happening if we don't reauthorize legislation based on the principle that the polluters should pay.

Ms. Whitman. First of all, the principle that the polluter pays is still very much a part of the overall administration's approach, and that is why we are seeing that 70 percent of the cleanups are in fact done by the polluter, those who are responsible.

Mr. Mollohan. We do have this reauthorization question facing us, do we not?

Ms. Whitman. We do. I wish I could say that the public didn't pay anyway, because even when it is a generalized tax, that very often is passed through to the public. The concern here is to ensure that the tax is going where it needs to go.

Mr. Mollohan. I am sorry, I didn't understand what you said. Will you say that again, please?

Ms. Whitman. Yes. The Superfund tax was on everybody, including industries that have a clean environmental record. The other thing is just my cynical nature in saying that I know that companies have a way that, when they are required to pay certain things, they recoup those costs and it usually comes at the expense of the consumer, that one way or another we pay.

Mr. Mollohan. But you strongly embrace the principal that polluters must pay.

Ms. Whitman. As does the President.

Mr. Mollohan. I think there are probably a lot of folks who look forward to his leadership by requesting authorization to that end. Mr. Chairman, that is the end of my questioning for now.

Mr. Walsh. Mr. Frelinghuysen.

SUPERFUND SITE CLEANUP: RESPONSIBLE PARTIES

Mr. Frelinghuysen. It might be not be advisable for me to follow Mr. Mollohan on Superfund, but I think the concern many of us have--and certainly from New Jersey--we want to get things cleaned up. And the question I always ask is what portion of the existing sites have responsible parties that have been identified that can help pay for the cleanup; and what percentage of the national identified sites have no, shall we say, responsible party, which therefore places the burden on the taxpayers?

And then there is this view, too--maybe this is just newspaper speculation--that the sites that are added in the future are sort of these megasites, and there are two that have been mentioned. I think one was a mining site somewhere.

Ms. Whitman. Libby, Montana----

Mr. Frelinghuysen. Are there responsible parties there, or are those the sites that, too, the taxpayers are going to have to shell out the money?

Ms. Whitman. We are still hopeful on Libby, although the responsible party has entered into bankruptcy, which has been a pattern that we have seen emerging. It is still 70-30. Seventy percent of the sites are cleaned up by private parties. We at this point in time in our review of sites anticipate that in the future 70 percent of the sites will be cleaned up by the responsible party, and the remaining 30 percent then devolved back to the Agency or the taxpayer. 30 percent will be paid by the other revenues, whether we get our revenues from the General Fund of the Treasury, or as I indicated this year, some money we still have from the Superfund tax that will be used. That has been pretty consistent: about 30 percent of the sites are what we call ``orphan sites'' where we can't identify the responsible party, or that the company has gone bankrupt or disappeared or there is nobody there.

That is why I have called for the pipeline review. That is one of the reasons we are doing that in the NACEPT process. We need to make sure we are identifying sites correctly, and we are prioritizing them in the right way so we are getting at the right sites first. We need to be very mindful of public health, and ensure that we are doing everything as sophisticated as we need to be to ensure that we can identify the polluter.

We think we have done a pretty good job with 70 percent of them being paid for by the polluter, but clearly we would love to have 100 percent done by the polluters. It is just not going to be possible in all sites because contamination occurred so long ago.

Mr. Frelinghuysen. I think a lot of what you have done is absolutely commendable in terms of expedited cleanups, holding people responsible, and certainly in areas where there is a density of population. Quite honestly, I am not sure how much population there is out in Montana and Nebraska, but for those of us in the Northeast we hope that the so-called garden varieties of cleanups still get your Agency's attention, and I am sure that will be the case.

Shifting gears, could you bring the committee up to date on what we are doing with this MTBE? I know that I read of some sort of compromise in the Senate which involves ethanol, but the committee has focused here in the past on the whole issue of banning its use sooner rather than later because of the widespread of pollution of a variety of different water supplies and aquifers. And here again something sort of went off--it didn't leave my radar screen, but it sort of left the public's radar screen. Where do we stand? Where does the EPA stand?

Ms. Whitman. We have been very concerned about the migration of MTBE into water bodies. Fortunately, if there is any good news with it, the health concerns do not appear to be as significant as people would gain from the nastiness of the smell and the way it impacts the water. People certainly don't drink water with MTBE in it. And as you know from New Jersey, we have had a number of people that have indicated that they have felt health concerns, headaches and other allergic reactions, to the gasoline when MTBE has been added to it.

The Senate bill on energy does include a provision for the banning of MTBE, and the Energy Department has endorsed that bill. The administration's position has been to endorse that. Also I believe that that bill also eliminates the 2 percent oxygenate requirement for gasoline. That would be something else that the Department of Energy has endorsed.

NEW YORK/NEW JERSEY PORT DUMP-OFF: PEER REVIEW STATUS

Mr. Frelinghuysen. Looking towards the port of New York and New Jersey, the infamous dump-off of the State, can you give me a brief update as to where we stand on that? I understand that there has been an ongoing peer review in terms of what is suitable for capping that 57 acres and that there has been a formal report in the making for some time, and I think last year you made mention that a draft proposal would be ready soon. I just wonder where we stand on the report. I understand that materials are being dumped, but that they are absolutely pristine and clear. So I am sort of looking for a higher level of reassurance of where we stand with this report.

Ms. Whitman. Region 2 is the lead on that, as you know, Congressman, and not headquarters. There has been an exchange of information that took longer than anticipated, there is no question about that, but the feeling is that that time invested was worthwhile. In January, EPA and the Corps of Engineers hosted a meeting with the scientific, peer reviewers of that. The human health scientific peer review is now underway, and we expect to initiate the ecological review this summer. So things are proceeding at the site.

Yes, you are right that material continues to be delivered, but that is material that has been deemed to be within the standards that are set for site and pose no threat to human health. The proposal for it was sent to the peer review panel in January of this year, so we are moving forward.

Mr. Frelinghuysen. Mr. Chairman, I would like to amend my compliments. I am sure region 3 deserves some recognition, but I should have been referring to region 2 in my earlier remarks this morning. So if anyone felt insulted----

Ms. Whitman. Region 3 carried the burden for the anthrax.

Mr. Frelinghuysen. Thank you very much.

Mr. Walsh. Thank you. I complimented region 3 earlier.

Mr. Price.

CLEAR SKIES INITIATIVE

Mr. Price. Thank you, Mr. Chairman. Governor, let me turn to clean air and the way the various clean air initiatives underway might intersect. A recent study in the Masthead, a medical research publication, linked ozone air pollution to actually causing asthma in children. A separate study published in the Journal of the American Medical Association links particulate pollution to causing emphysema and chronic bronchitis in adults. Another study recently published in the American Medical Association Journal concludes that long-term exposure to fine particles of air pollution, coal-fired power plants, factories, and diesel trucks is linked to an increased risk of dying from lung cancer.

Now, these studies underscore the proposition that air pollution directly affects the health of Americans, and despite the progress we have already made, we need to continue to press ahead. Can you update us on the status of the implementation of the 1997 ozone and fine particulate matter standards?

Ms. Whitman. We are continuing to move forward with those regulations. As you know, we went ahead with the diesel fuel and the lower sulfur content in gasoline and in fuel and the impacts, and we are continuing to move forward with those other regulations.

Mr. Price. It is sometimes confusing when you try to keep track of the regulatory activity and the judicial activity related to these regulations. In addition to these 1997 ozone and fine particulate matter standards, there are currently pending lawsuits challenging the current New Source Review enforcement policies. We are still in the midst of implementing the new ozone transport regulations. And the administration has now proposed a new initiative to reduce emissions of ozone, sulfur dioxide and mercury.

I wonder if there is anything you can tell us here today, but perhaps more expansively for the record, to help us understand whether and how all these pieces fit together. Would progress in one of these pending policy areas contribute to the resolution of conflict regarding other policies? For example, would the implementation of the 8-hour ozone standard require the kind of upgrades to older coal-fired power plants that are the objectives of the New Source Review enforcement policies? Alternatively, would the administration's Clean Air Initiative require some of the same kinds of pollution controls as the New

Source Review enforcement actions-or the 8-hour standard for ozone? How far would the Clean Air Initiative go in reducing levels of ozone relative to the pending 8-hour standards?

The bottom line for how we proceed, it seems to me, is to ensure that we do not lose ground, that we do not stall our progress in reducing air pollution that clearly affects the health of Americans. Is the administration's intention, for example, to move any increased flexibility on the New Source Review requirements in tandem with legislative action on the clear air initiative or progress on the 8-hour standard? You get my drift?

Ms. Whitman. I do.

Mr. Price. There is an intersection here that I think is poorly understood, and as I said, it is a bit much to ask you orally to pick your way through all of this, but could you say what you can say now and perhaps supply for the recordsome sense of how and why we can expect that the net outcome of these different actions is going to be continued progress in cleaning up our air?

Ms. Whitman. Well, Congressman, you have touched on the nexus of all of the concerns that we have, which is under the Clean Air Act we have a number of individual requirements that are scheduled to come into effect. Some are in enforcement now. Others are regulations that are coming into place at different times, setting different standards for the various emissions from companies, and from power plants in particular. That is cumbersome, it is confusing, and it can be very expensive. That is why the President proposed the Clear Skies Initiative, which would ensure it sets mandatory targets now, with reductions now on all three Pollutants: on SO₂, nitrogen oxide, sulfur dioxide and mercury. Those would be mandatory caps. Based on the analysis that we have done, the targets they would, in fact, get us faster reductions in those three major pollutants at less expense than under the current Clear Air Act.

Having said that, nothing implies a rollback of the Clean Air Act. We do believe that we have a very real possibility of reducing the paperwork burden on some of these regulations when and if Clear Skies is, in fact, enacted by the Congress. It depends on where the levels are set, but as the President proposed, we would certainly say that New Source Review, as it applies to utilities, not to the other sectors but to utilities, would be redundant because we would be getting better reductions under Clear Skies than we would get under New Source Review.

We see a 70 percent reduction in these three pollutants, under what the President is calling for. By 2010, you would have a 25-million-ton reduction in SO₂, greater than you would get under the current Clean Air Act; a 10-million-ton greater reduction in NO_x than you would get under the Clean Air Act; and a 20-ton better reduction of mercury under the Clear Skies proposal than under the Clean Air Act.

Those are real numbers. A part of what we would need to do, when we get the final numbers is identify which of the regulations become redundant. It is not that you are in any way weakening the Clean Air Act or our commitment to achieving cleaner air. It is, in fact, endeavoring to do it faster at

less expense to the consumer, because ultimately they pay whenever it costs a utility.

We are very hopeful that this program will allow us to capture these emissions reductions in a very efficient way and in a way that is even better than what we can expect to get under the Clean Air Act. We plan to move forward with a reassessment of all of the other regulations that we have in place that are geared to achieving standards, and lowering amounts of particulates that can be emitted or emissions that can be emitted into the atmosphere. This could do it faster.

OZONE AND FINE PARTICULATE MATTER

Mr. Price. Would that same reasoning apply to the 1997 ozone and fine particulate matter standards, that we are going to either meet these goals or do better?

Ms. Whitman. This would certainly have an impact on particulate matter, and, again, what we are doing now is going back through and taking another look to make sure that we are comfortable that anything that we would recommend being alleviated, let us say, does not do so with any harm to the atmosphere. We are going to be looking at every one of the regulations that apply to clean air. Once we have the Clear Skies Act passed, once we have standards and we know what the standards are, then we will be able to look at all those other regulatory programs that are designed to capture these particular emissions and see whether or not we need to continue along the same regulatory path that we are on today.

Mr. Price. To the extent that analysis is available before these hearings----

Ms. Whitman. Certainly.

Mr. Price. [continuing]. Go to press, I would appreciate any further elaboration of those assurances that you might be able to furnish for the record.

Ms. Whitman. Is there Anything else you wish to add?

Mr. Price. Thank you.

Ms. Whitman. We would be happy to do that.

Mr. Price. Thank you.

[The information follows:]

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Walsh. Mr. Cramer.

NEW SOURCE REVIEW

Mr. Cramer. Thank you, Mr. Chairman.

Administrator Whitman, welcome back before the subcommittee. I regret that I had to leave the room and perhaps missed the line of questioning that some of my colleagues might have taken you into that I want to take you into as well, but I want to talk to you about the New Source Review. Back in 1999, TVA, Tennessee Valley Authority, was sued by EPA--it wasn't just TVA, it was TVA and eight other major utility companies--for failing to comply--or for being in violation of the Clean

Air Act.

The issue I want to get your comment about is the routine maintenance issue versus substantial modification of plants. That seems to be the two different phrases that would be in contention here regarding TVA. TVA is in the middle of spending \$2.5 billion to clean up emissions, and we think they are doing a very good job, and yet they are caught in what seems to be a Catch-22, that any modifications that they make, even with emission controls, could be cited by EPA as something in violation of the Clean Air Act. Would you respond to that, if you can?

Ms. Whitman. Congressman, I can't respond in any detail on the particulars of the TVA case. Oral arguments for that case have been set for the third week in May. We believe it is a very strong case. Justice has looked at all of those cases that were brought under New Source Review, and said they were brought appropriately, so we are continuing to prosecute them. However, the issue of the routine maintenance repair--and what is the third R? Replacement. I forgot it. Routine maintenance repair and replacement is one of the issues that has been brought up time and again as being of concern under the New Source Review.

It is important to emphasize that there are two different parts of New Source Review reform. In 1996, the previous administration proposed some rules that would streamline some aspects of New Source Review and were subject to public hearings. That proposal was subject to public hearings and comment and the full regulatory process.

The routine maintenance repair and replacement provision is one aspect of another set of concerns that has been raised about New Source Review, but that has not been subject to the full regulatory process. It has not, in fact, been even submitted as yet in a proposed regulatory reform. Were the proposal to go forward in that fashion, it would be subject to the full-blown process, which can take up to 3 years.

Mr. Cramer. When will the administration release its report on New Source Review, or were you discussing that already?

Ms. Whitman. No, we haven't discussed that already, but that is still a subject of discussion. We were tasked by the Energy Policy Committee to do a 90-day review of policy on New Source Review. It is an enormously complicated issue and one that requires a great deal of time and attention. We are still in the process of finalizing that and finalizing the recommendations that we would make relative to New Source Review reform. The Clear Skies proposal that we worked on for the President, is the best form of New Source Review reform that we could possibly implement. For utilities, the Clear Skies proposal, as outlined by the President, would make New Source Review as it applies to utilities redundant.

DRINKING WATER VULNERABILITY ASSESSMENT

Mr. Cramer. I want to switch now to the drinking water vulnerability assessments. In the fiscal year 2002 supplemental bill, there was \$90 million appropriated for EPA. I am interested in rural areas and in their opportunities to participate in vulnerability assessments. Those rural areas or

small communities have urged EPA to reserve a minimum of 15 percent of the funds for drinking water vulnerability assessments for small communities. What progress or what comment can you give me on that?

Ms. Whitman. Congressman, what we have determined is the most important responsibility we have in this area is to make the most systems as secure, the safest, the fastest we can. That does not mean that we are not putting aside a specified percentage of the monies for the small water systems. But, the focus has been on the larger ones in order to ensure the safety of the greatest number of people.

However, we are working very actively with the smaller water systems, and will be providing technical assistance on vulnerability assessments. We vastly moved up the time frame for vulnerability assessments training. We are providing technical assistance, and we are also working with them to help identify dollars that would be available to enable them to move up their vulnerability assessments.

Mr. Cramer. Well, I don't always like mandatory figures, but I want you to be sensitive to the smaller communities as well, and it sounds like you are. And I want to encourage you to continue to do that.

Ms. Whitman. We certainly will. We are very concerned about that, but we are trying to prioritize where the greatest threats are and where we need to focus the resources first.

Mr. Cramer. Sure.

Mr. Chairman, thank you.

Mr. Walsh. Congresswoman Northup.

EPA GRANT MANAGEMENT

Mrs. Northup. Yes. I would like to follow up with some questions I have asked in the past about EPA grant management and in particular what is being done to get control of the grants that EPA has administered that--certainly I have a copy of the GAO report. It seems to me like this falls into sort of two categories, but they impact each other. One is the fact that grant recipients often don't complete the work that they say they will do. There is very inadequate oversight on whether or not the money is spent as it is supposed to be spent for allowable expenses. Instead it is used for meals that overrun the costs that they are allowed for and so forth. But I think probably the failure to complete the work and receive a new grant while work is still unfinished is, in that category, the more troublesome.

And let me just say this is an issue that I asked the previous Administrator about in great detail and got information that it seems to me like recent GAO reports have not substantiated. So I realize that you have inherited quite a mess here.

The other side of the area that bothers me is the use of this grant money for purposes that go beyond what should be allowable, particularly political purposes, and if someone who is in a district, who has huge numbers of ads and political activity by groups that come into my district without a recognizable face--truly they fly into town without one person there at the press conference that lives in my district to host press

conferences and put out their political misinformation--it concerns me that they are being funded in part by EPA grants.

I think it is sort of hilarious that in one of the articles I have here, one of the recipients is quoted as saying, EPA grants are very, very discrete projects. You have to identify ahead of time what you are planning to do, meaning you can't do anything like political activities. Of course, in light of the GAO report, it is clear that no one has any idea what these groups do with the money anyway, and number two, we all know that cross-subsidies are possible.

And I just sort of wondered if you could give me any idea what you are doing, what other areas GAO might look at to give us a clearer picture of just what the extent of the problem is, and, you know, a request we might make, if you think that that would be helpful.

Ms. Whitman. Well, Congresswoman, I heard you and other Members of Congress on the Hill loud and clear as well as having our own concerns about some of the oversight. One of the most effective ways, in addressing the issue is to move toward a competitive process for nonprofit grants. We expect, in fact, to have a process in place by October of this year that will move us to a competitive process for nonprofit grants. That combined with an increased emphasis on oversight, by requiring that those recipients do report regularly to the Agency, and that we have some way of ascertaining the accuracy of those reports is also at a priority for us. We are moving forward to ensure that all of the taxpayers' grant money that goes in grants is, in fact, spent for the very complicated, very important areas of review for which they have been selected.

Mrs. Northup. You know, I actually think the nonprofit community can provide great educational benefits, and I notice that some of the press has sort of ridiculed some of the studies that have been done, everything from what chemicals are applied to golf courses and so forth.

I have to tell you I don't object to EPA funding reviews of all sorts of environmental activities that Americans take place on. I think we deserve to know whether even walking across a golf course is harmful to our health. So I have in no way an objection to EPA providing as broad-based a network as they can of looks at the environmental impacts on our lives and to provide educational efforts to bring that to our attention. It is the misuse of money that I object to.

I would like to just make one suggestion along those lines. It is my understanding, as I looked at some of this in great detail, that some of the groups, even if they have a review, they then subcontract out to other nonprofits to do portions of their work, and at that point many of these nonprofits have more than one--is it called an EIS number or something like that? So that when I ask for--I can't think of what that--some identifier, a number that is, an identifier--that all of those--that an organization has to be consistent with what the identifying number is that they use, and that all subcontractors have to be identified by their number, so that an organization that receives multiple subcontracts, enough that they would be over whatever the level is for an audit, that if their aggregate total grants are over that, that they would receive an audit.

It is the lack of consistency in using the same identifying number and the packet that subcontracts--one organization could actually contract and receive many subcontracts that would add up to over that amount, but they would never appear on any sort of printout of who might have a contract under EPA guidelines.

Ms. Whitman. We are looking at this whole area very, very seriously. We are working on developing an order that will replace the current guidelines with an actual order, that will address a number of these issues.

Mrs. Northup. Okay. Thank you very much.

Mr. Walsh. We have just one more questioner this morning, Mr. Goode, and then I think we will take a break, which will put us around noon, and then we will reconvene around 1:30. And I would like to see if we can get the other Members who weren't able to join us this morning, and we will go until as long as there are questions or until 4:30, whichever comes first.

Mr. Goode.

ENVIRONMENTAL REGULATIONS: ECONOMIC EFFECT

Mr. Goode. Mr. Chairman, this is maybe more of a comment than a question.

I know you get a lot of persons wanting more regulation, and I want to give you a few specifics from my district. Lunenburg County unemployment, around 14 percent. There was a company there this year employed 75 persons, had been in business for decades. The EEQ, because they burned something--and I don't even know what it was they burnt--said they were going to have to come down and do an investigation and do a lot of testing. Well, the company said, hey, you know, we have been here. We are employing 75 persons, but we can't put up with all of this stuff, we are closing our doors. So they went out of business on January 1. We lost 75 jobs. The unemployment is already 14 percent. It is a tobacco-growing area, and you know what a horrible attack the last administration did on tobacco. I want to thank you for being much more balanced than your predecessor.

Another situation, specific, Henry County 3 years ago, they wanted the copper to come out of the water that the persons on the Henry County PSA--the copper level to be lower than the natural copper level in the Smith River.

We negotiated with EEQ and EPA on that and got some relief, but we had outsiders come in. I don't know if they got any of the grants Mrs. Northup was talking about, but they were down there beating the drum for this copper level, and that was great for them, because they weren't going to have to pay the water bills that the people in Henry County were going to have to pay, jacking them up about \$20 per month to meet the standard. And the copper wasn't dangerous to the health of humans. It was some weed over in the Smith River that they were concerned about.

I will go on down to Martinsville and Henry County again. The unemployment now there is between 13 and 15 percent. Martinsville is the city, and Henry County is the county. Henry County has about 55,000 in Martinsville city. Both are losing people. It has about 17,000. I will give you a few of the job layoffs we have had there. VF Knitwear, 3,000 people going

completely out of business. They are going to Mexico. Tultex, home-grown, primarily local money there, they went out of business, several thousand people, 2 years ago. They didn't go to Mexico. Furniture is fast going to Mexico and China. We get a lot of Trade Act assistance in Martinsville and Henry County. I am thankful for that.

Let me tell you some of the reasons they are leaving our area. Henry County on a per capita basis had more manufacturing than any other jurisdiction in Virginia, and now it is all going to China and all going to Mexico. One of the factors is they don't have to--they say they don't have an EPA over in Mexico, and they don't have one in China, and they don't have all of the labor demands. They can go over there and pay them a lot less labor.

The point is we are losing a lot of manufacturing jobs, and environmental regulations, I want clear air, I want clean water, but I want the people to have some money so they can get some food and get the basic necessities of life. And the unemployment is going up, and a factor in it is overregulation in this country. They are all going to China and Mexico, and I want to know if they have an EPA in China and Mexico.

Ms. Whitman. Well, I know that China has begun to take a very hard look at what is happening with its environment. It has actually changed its mix of energy, and we are looking very closely. We have two entities, NADBank and VEC, that fund environmental projects along the border. The President has been working very closely with President Fox, and I have with my counterpart in Mexico, to address issues of air quality and water quality as they impact the border.

That is not to say they have the same kind of regulation as we do in place, but they actually have recently agreed to establish something like our Toxic Release Inventory for the first time. They are starting to take steps to ensure that they are getting a better understanding of what, in fact, is being put into the atmosphere and looking for ways to reduce that burden to protect their populations as well.

It is really a question of helping with technical assistance and ensuring that they have the wherewithal to do the job. But the sensitivity to the importance of environmental protection has risen greatly in Mexico.

Mr. Goode. But not quite to the same extent in China.

Ms. Whitman. Not the way we have it here.

Mr. Goode. If I were a manufacturer looking to start up a business, I would say that it would be much easier for me to comply with the rules and regulations in Mexico and much easier for me to comply with the rules and regulations in China than it would be in the United States. That is a true statement, isn't it?

Ms. Whitman. It is probably a true statement, but as trade promotion authority is discussed, and as other trade measures are discussed, giving the President the ability to deal with these issues, those are some of the issues that are coming to the forefront. So in the Chilean Round, and in all of the current trade negotiations that are under way, there is a recognition of environmental impacts and the uneven playing field and the need to provide some relief so that U.S. companies and businesses are not adversely impacted by environmental regulations. We are still maintaining standards

that are important to public health.

Mr. Goode. All right. Thank you for the opportunity.

Mr. Walsh. I believe that concludes this morning's round. Thank you very much for your testimony, and we will reconvene at 1:30. The committee is in recess until 1:30.

[Recess.]

Mr. Walsh. This subcommittee will come to order. Here we are for the second round and why don't we go to Mr. Knollenberg, who was not able to be here this morning, and then I will be going to Mr. Frelinghuysen, and then come back to myself.

Joe, go ahead.

EGU/NOX: MICHIGAN GROWTH ASSUMPTIONS

Mr. Knollenberg. Mr. Chairman, thank you and welcome, Administrator. Nice to have you here. I have a couple of questions for you, and maybe you can help us get on the road with respect to the progress, or maybe the lack of progress we have had on a little matter called the EGU, which I know you are familiar with. It has to do with the NOX budget, and I have got some frustration myself about the lack of response the EPA has given the State of Michigan concerning the growth assumptions on the EGU. Last year, and you have got the letters from the congressional delegation, from Governor Engler and others, as to putting some emphasis and focus on this, and I think the resolve that we have seen from the EPA hasn't given us any kind of clear directive as to when to expect the ultimate decision by EPA as to how you are going to rule.

The Michigan Department of Environmental Quality and the Michigan Public Service Commission have made a strong case that the methodology used by the agency kind of underestimates the actual rates of growth that have been observed over the last 5 years in Michigan. The courts have also raised that issue, and I don't have to read the report or the explanation that they provided on last May 15, but one of the things they make very clear in their statement is that the EPA claims it made a reasonable choice and it may be right, but simply to state such a claim does not make it so.

There must be, as they go on to say, an actual reason articulated by the agency at some point in the rule making process. They state there is none here. As a result, we have no choice but to remand the EPA's EGU growth factor determinations so that the agency may fulfill its obligations to engage in reasoned decision-making on how to set those growth factors. In a letter sent--a variety of letters went back and forth, but one dated on the October 30, I guess it was, of last year from Mr. Jeffrey Holmstead, I believe. Is he in the room too?

Ms. Whitman. No, he is not. He will be back.

Mr. Knollenberg. There was a statement to indicate that a view would come forward and that the decision that EPA was making could be determined to be supported with a more robust explanation. Well, I don't know what that means, but I do know that we are still waiting for an explanation. And in the second to last paragraph in that letter of October 30, it indicates that in November of last year there would be a resolve in some explanation coming forward. Now, I understand nothing has come forward. Is that true? We

have received nothing that I know of.

Ms. Whitman. That is correct, and in fact, we are anticipating having that ready by March, the end of this month.

Mr. Knollenberg. Did I hear that Mr. Holmstead just came in the room?

Ms. Whitman. Yes. He can come right up here and describe the difference between a robust and just a plain old answer.

Mr. Holmstead. Thank you for including me.

Mr. Knollenberg. I really would like to know what a more robust explanation is, and if you just entered the room and didn't hear some of the preliminary, we are looking for a response relative to this NOX issue that we have been scrapping with you for some months now, and you indicate in that letter of October 30 that there would be something forthcoming in November of 2001. Now, the administrator tells me now that is going to be in March of 2002. This is March of 2002; so when is that explanation going to come forward so we can establish some rulemaking here on this issue?

Mr. Holmstead. What we are still planning to do this month is a response to the remand from the court that would require us to either simply further explain or propose to change the growth factors that we used in setting up the budgets for the NOX-SIP call. That is what we plan to do by the end of this month under the schedule that we have, I think, given to you and to others.

The real issue, as I think you know, is some concern that in setting up these budgets, the Agency underestimated growth in different specific states, and that is an issue that we have spent a fair amount of time looking at. You know Russ Harding I am sure. I have spent some time talking with him about it. One of the things we want to make sure that everyone understands is that for purposes of setting up the budgets for individual States, we have looked at the growth factor for heat input. What the State is concerned about is not the growth factor for heat input but the growth factor for electricity demand, which are different things.

So what we are trying to do is work through with them the difference between the heat input, which only deals with electricity generated by fossil fuel plants and electricity demand which can be satisfied in a number of other ways. I know one of the issues that has come up is a concern that growth in the State already was higher in the first couple of years than we predicted it would be over about 7 years.

As I understand it, that has to do with at least in part with the fact that a nuclear plant actually went down for maintenance for a couple of years, and as a result, the fossil fired plants needed to make up that difference and you had a significant growth in heat input. Since that nuclear plant has come back.

Mr. Knollenberg. Which nuclear plant are you talking about?

Mr. Holmstead. I don't recall the name, but I know it is located in Michigan. There was a plant that was down----

Mr. Knollenberg. It was not a big one.

Mr. Holmstead. It provided, I think, 10 percent of the electricity in the State.

Mr. Knollenberg. We will get to the bottom of that but go ahead.

Mr. Holmstead. Since that plant is back up now, the heat rate has actually decreased over the last 2 years, as opposed to increased. We are trying to smooth out that bump if there is no reason to believe that the plant will be down again anytime soon. What we are trying to do is look at a broader historical pattern to make sure that we are getting it right.

Mr. Knollenberg. What we are frustrated with is the fact that we have received nothing, and the promise has been made that it would be forthcoming, and it simply hasn't come, and the frustration runs right through the entire Michigan congressional delegation. The Governor has repeatedly weighed in on this, and he is still weighing in, I am sure. So we would like to see some action in the time frame you have just indicated, sometime in March, so we have some idea about what to anticipate here. I think it was the Cook Nuclear Plant, by the way, that you were referring to.

Mr. Holmstead. That sounds right.

Mr. Knollenberg. But that has been our concern. We feel that there is a flaw in the formula, if you will, that you are using here, but we need to debate that and talk it through and resolve it so that we have something we can go home with. And I appreciate your response to that, and I look forward to that answer as soon as you can provide it.

Just touching on one other thing, and Mr. Chairman, how much time do I have left there? I am not sure where I am going to go unless I have the time----

Mr. Walsh. 3 minutes.

GRANTS MANAGEMENT: NONPROFITS

Mr. Knollenberg. 3 minutes okay. I will make this comment, and I understand it was covered this morning with respect to the \$2 billion in EPA grants to nonprofits and where some of that money went, and I presume you have gone through all that, so I am not going to fertilize that again, but I think there are some questions we should raise there, quite honestly, and I hope that according to the information I have gotten, you are looking into resolving or making a change to the kinds of grants that are made to these nonprofits.

Ms. Whitman. We are going to go to a competitive structure for grants for nonprofits. At the same time, we are going to enhance our oversight and requirements for grant recipients so that we make sure we have regular reporting. We are staying on top of them, and we do reach that nexus. Where there is a possibility to audit, we will do it.

COMBINED SEWER OVERFLOWS (CSOS)/SANITARY SEWER OVERFLOWS (SSOS) PRIORITIES

Mr. Knollenberg. I may not have enough time to get through this one, but it is on the CSOs and the SSOs and the role of the Federal Government in addressing the problem of combined sewer systems. I think it has been said in my home State of Michigan that the needs are estimated to be 5.1 billion. We are trying to cut some of those costs down by doing some things that are sort of high tech, such as putting in a liner in some of these older systems, which greatly reduces the cost and it

certainly doesn't decrease the efficiency, it improves the efficiency.

So some of those things are being done, but even so, and I think last year you said that one of your priorities was the wastewater infrastructure, and I would hope that that is still the case, and if there is any brief comment you can make on that as to what are your priorities, and when are you setting those out to be accomplished relative to the CSOs and the SSOs.

Ms. Whitman. Well, the CSOs and SSOs continue to be a huge challenge that we all face. As I indicated last year, this is an area where I believe we need to have a very strong and engaged relationship with the Congress to try to figure out answers as we go forward, because it really impacts on all of the water challenges we face from drinking water to the combined sewer overflow to the sanitary sewers. We are developing a regulation to better clarify SSO requirements. We are moving forward with that.

There are about 200 municipalities in the State of Michigan that have experienced SSO overflows in the last 5 years. We are working very closely with the State to address those issues. The technology to which you refer is the kind of thing that we are looking at to see the impacts. The Chairman talked about this a little bit earlier today, we are looking at anything that will help States and communities to reduce costs and yet meet the challenge that is posed. We are looking forward to continuing to work with everybody on this issue, but it also goes to the bigger issue that we face in water. It is not just the sewers and the sanitary sewer and combined sewer overflow, but it is also in the drinking water and clean water.

All of those things are interrelated. I don't think we can honestly separate out any of them for the long term. We need to decide on how we can move forward, and what kind of a program we need to put in place to look at all of them, although we have specific regulations we are developing to clarify on SSO.

COMBINED SEWER OVERFLOW CONTROL AND PARTNERSHIP ACT

Mr. Knollenberg. A closing comment on this subject, and I know my time is probably running shy, the Congress has spoken on this issue. As you know, they passed the Combined Sewer Overflow Control and Partnership Act, and it was one of Jim Barcia's, he was the author of that in the 106th Congress. So that is, I think, a Michigan perspective maybe, but it also has been embraced and endorsed by a number of members all over the country, so it is a huge issue, and I am glad to hear you say it is still a priority. It is a huge priority, and I guess it has to remain that way. We can talk later if we have time, Mr. Chairman, about some of the funding that might be arranged to accomplish that success----

Ms. Whitman. Congressman, if I could, one of the things that I have been saying repeatedly is, I believe water is going to be our major environmental challenge of the 21st century. This is so in particular because the costs that we are looking at are so enormous, and so the challenges we face are huge.

We are talking about now not just point source pollution. We have picked the low hanging fruit, as it were. We have done the easy things. Most of those pipes that directly discharge

into bodies of water have been dealt with, or at least they are pretty easily identifiable. Now we are talking about watershed base management, and that is going to take a whole different approach. It is going to take education of the public so that they understand that actions far away from a body of water can impact on that body of water, and just the very basic information on how do we deal with the sewers and overflow problems that we have and the infrastructure dollar requirements that are going to be required.

Mr. Walsh. That is exactly why Congress's prerogatives should be respected by the administration.

Mr. Frelinghuysen.

ENFORCEMENT

Mr. Frelinghuysen. Thank you, Mr. Chairman. Governor, could you talk a few minutes about the whole issue of enforcement? There have been a lot of charges and countercharges going back and forth here in terms of what the EPA is doing to enforce existing laws. Could you clarify what exactly what we are doing, you are doing to uphold the laws?

Ms. Whitman. Certainly. I would be happy to. We continue to vigorously enforce the laws. And, in fact, last year was really one of the outstanding years. We saw an increase in the number of dollars spent by responsible parties in cleanup, in penalties that they face, and the number of cleanups that were undertaken. Also where those responsible parties didn't come forward in working with us, there was an increase in jail time served. We continue to maintain a very vigorous enforcement program. We are projecting that we are going to continue that kind of enforcement effort.

We certainly don't intend to back away from our responsibilities there, and so we think that we are going to continue to see the kind of message get out that needs to get out. We are willing to work with you if you are going to work with us but if you are not, we are going to make sure that you then are held responsible for your actions.

Mr. Frelinghuysen. Those who suggest that somebody's trying to weaken the rules, that is not in anybody's game plan?

Ms. Whitman. No, it is not. Some people have said that we are projecting a lower amount of inspections, and a lower amount of enforcement actions. We always have projections that are lower than the actual numbers. We always do better than we anticipate. As far as inspections and enforcement are concerned, and where our focus is, on the actual enforcement.

I believe that the important thing for us always to remember is you can play a numbers game a lot of different ways. The important thing is are we making improvements to the environment. Are we actually seeing sites cleaned up? Are we going after, as we had the discussion this morning, on polluter pays? Are we going after that? And last year's numbers, as I said, really were record-setting as far as the amount of cleanups that were undertaken, the number of enforcement actions that were taken, and the amount of money that those responsible parties were forced to spend to clean up their activities. That is a good indicator of where we are going.

HOMELAND SECURITY: RESEARCH AND TECHNOLOGY FUNDING

Mr. Frelinghuysen. Changing the subject, sort of going to the issue of homeland security, the President's budget requests an additional \$75 million to conduct research on better technologies and assessments to cleanup buildings contaminated by biological and chemical agents. I would assume some of that money is for other related purposes.

Ms. Whitman. Yes.

Mr. Frelinghuysen. Could you talk a little bit about that, and is there a linkage between what you are doing and the efforts of other Federal agencies?

Ms. Whitman. We work very closely with our Federal partners on these initiatives and particularly in the area of inspections and in research, we are working very hard in research. The activities that would be paid for included under that \$75 million are to develop better methods for rapidly detecting contaminants so that we are able to respond more quickly, and technologies for better decontamination procedures. We are working very closely with the CDC and with ATSDR. We are working with the Department of Defense very closely on identifying contaminants. We are looking at new technologies.

Particularly since the anthrax incident, we have, I think, about 35 different technologies that have been proposed to us as being able to decontaminate anthrax very quickly. We are trying to move them forward in an expeditious way, but we have got to make sure they actually do what they say they are going to do.

So we are trying to ensure that we have a variety of options available and we continue to ensure that we coordinate with Homeland Security. In addition, we will work very closely with the others who are involved in the same kinds of activities. The Department of Defense and we have set up--we actually have a task force with them.

Mr. Frelinghuysen. It comes down sort of to a very basic level. The first responders on the scene often are local folks--EMT, police and fire--and they would be involved in seeing the people are brought to emergency rooms. I just want to get a greater feeling that you are involved in link to emergency rooms, CDC, departments of health--all the necessary agencies are talking to one another which sort of brings up the whole issue of whether information systems do talk to one another and how well safeguarded they are.

Ms. Whitman. That is a different issue and we are working on that one as well, again under the auspices of Homeland Security. We are working to develop, for instance, for water systems and chemical companies, secure networked sites for each industry where they can share security information and not have to worry about other people coming in. We have done a lot of revision and a lot of analysis of our own EPA Internet site, including reviewing the information that we already have up to see what we have and how we can protect what needs to be protected, and yet ensure that the local responders have everything they need to be able to respond appropriately to terrorist actions. We are working very closely with State governments, with local governments, and in fact, as far as water security is concerned, we have been in touch with local

police forces across the country to help them be aware of vulnerabilities at water systems.

COMPUTER SYSTEM ATTACKS

Mr. Frelinghuysen. Have you had people attack your system? Have you had attacks on your overall computer system and----

Ms. Whitman. Not that I know of.

Mr. Frelinghuysen. And have you actually used, like, some departments--DOE came in to see us and they often employ people whose direct work is to see if they can undermine the sanctity and security of systems. I assume that this is the sort of thing that you are looking at as well.

Ms. Whitman. We haven't had, that I know of, an unauthorized intrusion into the Agency's network since we have been working on the security system. That is certainly something we take into consideration, and when we work with others to enhance the security of our system, we put it to the test as well.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Rodney. Mr. Fattah.

CHILDREN'S HEALTH: LEAD-BASED PAINT

Mr. Fattah. Thank you, Mr. Chairman. Governor, it is good to see you again. In the mid Atlantic region, in Pennsylvania specifically, you have done a number of grants related to the eradication of lead-based paint, and I was wondering how involved the EPA is in this issue nationwide, how big a problem do we still have of children growing up and living in housing in which there is lead-based paint and I am just trying to get a sense of the scope of the problem versus the level of your response and whether HHS is involved also or is this a purely EPA issue?

Ms. Whitman. Oh, no. It is a much bigger issue. I believe it is a million children who still suffer from----

Mr. Johnson. Yes.

Ms. Whitman. Yes. A million children still suffer from lead poisoning. One million is a number that we feel is totally unacceptable, because it is a preventable problem. We just announced a joint settlement with Housing and Urban Development with one of their contractors that will--they will go back----

Mr. Fattah. A very large sum.

Ms. Whitman. Yes. That is 320,000 units, I believe, that are going to be remediated to get the lead out. We need to expand that. We are looking very actively at other ways in partnerships in which we can enter. We work closely with the Department of Health and Human Services, and this is a major issue. In fact, I just met with one of our scientific advisory committees and asked them to focus on lead as a challenge. It is something that I believe we should be able to eliminate as a threat to our children.

Mr. Fattah. Governor, you know that we have known a lot about this for a very long time.

Ms. Whitman. Yes.

Mr. Fattah. It will be helpful to me if you could provide the committee with some information about the scope of the

problem, not just the number of children. I heard you say a million, but the number of what we perceive to be housing units, and if that is the case, are there other facilities in which children are in schools, other places where there still may be lead contamination, and if anyone could give a sense of what it would cost to once and for all resolve this problem, because as we know, it interferes with the educational levels attainment of these children, and the President has said he does not want to leave any children behind, and it is impossible not to leave children behind if they are going to be contaminated by lead-based paint.

And so I know of your interest in this. It will be helpful for me to get a sense of--since it is something we could actually concur if we were determined to do so, if we could get a sense of what it would take to do it.

Ms. Whitman. We could certainly do that for the record, but Steve could add to the conversation right now, Steve Johnson, who is the Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances.

Mr. Fattah. Thank you.

Mr. Johnson. Thank you, Governor. The issue of lead-based paint is a serious issue facing the United States and as Governor Whitman said that we do still estimate close to a million children with blood lead levels over an acceptable level, the good news is that some recent survey work done by CDC actually shows that the numbers of children are coming down. So that is very good news.

As far as the number of houses, there are pre-1978 homes where typically lead-based paint was used, and our estimates are that there are about 15 million housing units across the United States. Each year there is a variety of things that are done to those homes, renovation, remodeling, and those activities lead us to much greater numbers by several orders of magnitude.

So we are looking at not only the total number of housing units, but also we have got some fairly good estimates working with HUD on the number of renovations and remodeling that go on, and that is clearly an issue that we are trying to work our way through.

Mr. Fattah. In terms of abatement, is there an estimate of what it would take to clear the contamination in these----

Mr. Johnson. I don't have that figure off the top of my head. I would be happy to provide that for the record.

Mr. Fattah. If the EPA could provide that for the record.

Ms. Whitman. We would be happy to provide that for the record.

[The information follows:]

Lead-Based Problem

The primary federal clean up role is with HUD. The USGS has determined that 96.4% of all lead paint used in this country was used before 1960, so that is the focus of some recent HUD estimates. In February 2000 HUD estimated that it would cost \$20.7 billion to identify and abate all lead hazards in the 2.3 million pre-1960 housing units occupied by low income families not covered by HUD's Lead Paint Regulation. We would consider these units to be the most high risk housing units.

Alternatively, HUD estimated that it would cost \$2.3 billion to conduct more limited lead hazard reduction or interim control activities in the same 2.3 million high risk pre-1960 housing units. Note that because these interim control activities do not remove all lead paint, they require periodic inspection and maintenance to ensure that no new lead hazards emerge. To clear up all lead hazards in every housing unit they estimated it would cost \$166 billion.

EPA's role in addressing the lead-based problem include clean up standards based on the overall risk of exposure, creating a national/state/tribal regulatory framework for certification and training of lead-based paint abatement professionals, and outreach to people who might be at risk of exposure to lead-based paint.

WATERSHED GRANTS INITIATIVE

Mr. Fattah. This is not one of those problems that we haven't figured out how to deal with, it is a problem where we haven't generated in terms of the resources to actually do something about, because we know how to solve this problem. It is not rocket science. So I would appreciate that, if you could provide it.

Can I ask one other quick question about watershed issues. I note that your budget request requests \$21 million for assessment purposes. In our region there has been a lot of assessment already. I was wondering for areas in which assessment is no longer a need, would those dollars be available for other purposes?

Ms. Whitman. The \$21 million to which you refer is to identify 20 watersheds throughout the Nation that are threatened watersheds, and to provide some dollars to the States and the local entities to do planning for mitigation. It is separate and is on top of the Section 319 money and other moneys that go for nonpoint source pollution that the States use currently for watershed management. So for those areas that perhaps might not be one of the 20, there are still other dollars available to move them from the planning process into implementation. What we are trying to do is start to see how we leverage the other dollars that we have out there in watershed management, and if we cannot also develop some models for others to look at for ways to address watershed degradation problems.

This approach is based on the Charles River in Boston. They have a very successful public private partnership with some NGOs the city, the State and the Federal Government that has resulted in a very dramatic cleanup of the Charles River. So we are looking forward to being able to provide that kind of example for people, and hopefully we believe to show them ways to, in a cost-effective manner, remediate some of these water issues. The other funds continue to be there, such as the 319 funds, the State revolving loan funds, and all of those could be used for the projects to which you refer.

Mr. Fattah. Thank you very much, Governor. Thank you, Mr. Chairman.

Mr. Walsh. Thank you. I will begin the next round. We will get back to order. I would like to touch on another subject, and that is the EPA's management score card. For those on the Committee and in the audience who may not know what this is, the Office of Management and Budget has determined to score every Federal entity in five broad management categories. It is noted in your budget submission--which, I should note, are illustrated in a stoplight mode, red supposedly being bad, green being good--were as follows: Budget and performance integration, yellow; e-government yellow; human capital, red; competitive scoring, red; and financial performance, red.

I should mention the EPA's scores were, in fact, pretty good compared with most other agencies' score cards.

On the other side, this whole idea strikes me as terribly subjective, and in fact, not particularly helpful in resolving real and specific problems. I think there are some agencies that scored fairly well that may not be considered well managed at least in the Congress. Recognizing that you have to be judicious in how you respond, do you believe that the OMB exercise is helpful in resolving actual and known problems at the agency?

Ms. Whitman. I do believe it helps focus us, yes. Obviously, we would argue we would want to be an all green. As you pointed out, two yellows is not bad, considering where some of the other departments and agencies are, but we still have challenges in the areas that they have outlined. We do still have ways to go in some of those areas, but we feel we are further along in some and we will just argue it with them. As far as an exercise that helps focus on the priorities of the administration relative to what Congress wants to see and the ability of agencies to report back as well as assure people that we are spending their money wisely, it does help.

Mr. Walsh. I assume this is the management function of OMB as opposed to the budget function of OMB?

Ms. Whitman. Right. This is the management function.

Mr. Walsh. Who makes this determination, at what level? Do you know?

Ms. Whitman. Signed off at the highest levels.

Mr. Walsh. Signed off, but do they make this analysis?

Ms. Whitman. I suspect it gets done further down the line. Who did you have conversations with? Because I know we did argue that our side was a little better on a couple of things than we had before.

Mr. Walsh. If you would identify yourself for the record, please.

Mr. Ryan. Mr. Chairman I am Michael Ryan, Deputy Chief Financial Officer. We spoke with a variety of people at the staff up and down at OMB and---

Mr. Walsh. People who all had extensive management experience?

Mr. Ryan. They are in the Office of Management and Budget.

Mr. Walsh. Had any of them ever managed anything?

Mr. Ryan. I am sure that is true. But we spoke to a variety of them, and they arrived at a consensus that was worked up to the highest levels and signed off.

Mr. Walsh. Do you agree with the administrator that that

analysis was objective and helpful?

Mr. Ryan. Mr. Chairman, I always agree with the administrator. And this is no exception.

Mr. Walsh. And I suspect that the director of Management and Budget also agrees with the staff, and vice versa, on these recommendations.

Mr. Ryan. Not to be facetious, it was objective--there was a debate among us. Some of us think, of course, we should score even better, but I think they were objective. They set out criteria, and they did by their best and we actually have been making progress ever since it came out. It has focused, as the administrator said, our attention on these issues, and you can believe that we are spending a lot of time worrying about these five issues.

Mr. Walsh. So they did give you an opportunity to address the proposed score card and effect changes before it was published in your budget documents?

Mr. Ryan. Yes, sir, ample.

Mr. Walsh. This is a question of the Inspector General, if she would care to comment on the score card. If you would, please, feel free to comment on whether or not you were given an opportunity to comment and effect changes within the score card. You don't need to come forward if you just identify yourself.

Ms. Whitman. Nikki Tinsley, Inspector General.

Ms. Tinsley. We did have discussion with the OMB on the e-government score. On the others, we did not have a discussion.

Mr. Walsh. Would this score card be a potential problem wherein certain OMB-identified concerns are assigned a higher priority than they otherwise should or would be by EPA?

Ms. Tinsley. Ask me that question again.

Mr. Walsh. Would you be concerned that their priorities are different than EPA's?

Ms. Tinsley. The priorities that are identified in the score card are very consistent with the management challenges that we have identified over the last several years for EPA. They are also consistent with management challenges that other inspectors general across government have identified as important to their agency. In many instances, these challenges, if they are addressed by the agency will provide a good framework for the agency to better manage its operations and to better inform the public about the results of operations, so--
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Mr. Walsh. Do you see this as sort of a venture into your role? Is OMB usurping your role as Inspector General in terms of the management responsibilities of the agency?

Ms. Tinsley. No. I think all levels of government, no matter which part you are in, have a responsibility to make the government operate efficiently and effectively---

Mr. Walsh. And that is not your responsibility?

Ms. Tinsley. Ours is an oversight responsibility to report how that is working, but it is management's responsibility to make sure that programs work and that there is good financial information and good performance information.

Mr. Walsh. Thank you. Any other comments on the score card?

Ms. Whitman. No. I would say this is the one that the President feels very strongly about. The ultimate report card

did come up and was signed off on at the highest levels. It represents his commitment to ensuring that we work as efficiently and effectively as we can. Again, we did have an opportunity to push back a little bit to point out where we had made progress during the time that they had started this process to when they came out with the report card and vigorously defend ourselves where we thought we had been unjustly relegated to red. We have made a lot of progress since, but it certainly has been helpful in focusing the agency on these challenges.

LAKE COOLING TECHNOLOGY

Mr. Walsh. I don't know whether I have asked you about this. It is another technology that I have come across. I am not sure whether I asked about it last year, and you may or may not have someone who is familiar with to comment on it, but I would appreciate if you could give me some sort of response in writing, if you can't do it verbally, and that is, this issue of lake cooling.

Cornell University recently employed it, and the Finger Lakes are very deep lakes holding lots of cold water, and the technology draws water from the hypolimnion, which is the bottom of the lake, and it is drawn up and it is run through a system of pipes, and they use it to chill air and then they put it back into the lake, and I guess the issue is the temperature as it reenters the lake and how it affects the ecosystems. Is there anyone at EPA that has looked at this technology? I am sure someone has, but they may not be here.

Ms. Whitman. Jeff?

Mr. Holmstead. No.

Ms. Whitman. No one has looked at that particular technology, although we certainly have looked at and are concerned about the impact of activities along lake fronts and rivers, on the temperature of the river and the impact upon the ecosystems. We can certainly have someone sit down with your staff and find out a little bit more about this----

Mr. Walsh. I think if it proves out in Ithaca, for Cornell, and I believe there are one or two Canadian cities that are looking at this technology, it really has dramatic application in the Great Lakes area where you can get to deep water within a mile or two offshore; and I know Rochester, New York has looked at it and believe it or not, my hometown, which is probably 40 miles from the lake, could conceivably utilize that technology too.

But it would be interesting to see what EPA's take was on the technology in the event that it became a broadly-used energy source or energy derivative.

Ms. Whitman. Certainly. We will get someone to get the information on it and then get in touch with Cornell.

[The information follow:]

Lake Cooling Technology

EPA has conducted a review to evaluate the potential effects of this project on Cayuga Lake. A letter dated October 5, 1999 (sent as a mass mailing) describing the results of the

Agency's review is attached. Briefly, one concern that EPA has relates to the system's expected discharge of phosphorus, since Cayuga Lake is listed as an impaired water body for nutrient enrichment. The system would withdraw deep cold water from the Lake for cooling purposes and would discharge to the shallow southern portion of the Lake. This discharge, at its maximum permitted flow, will result in a 3 to 7 percent increase in total phosphorus loading per month to the top layer of the lake during those months when the lake is stratified. This is a transfer of phosphorus to the lake. However, there is concern regarding the potential for algal blooms due to this phosphorus transfer. The evaluation concluded that EPA does not believe the plant will result in significant or discernible increased algal growth.

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

Mr. Walsh. Thank you.
Mr. Mollohan.

CLEAR SKIES INITIATIVE: EMISSIONS STANDARDS TECHNOLOGY

Mr. Mollohan. Thank you, Mr. Chairman. Governor, there have been a couple of questions asked about the Clear Skies Initiative, and I must say, I am not completely unhappy with the idea of coming forward with a scheme that defines the standard, but doesn't set the technology by which that standard must be achieved, which I understand this leans toward. And the President, through this initiative, would encourage utility sources to find the most innovative ways to achieve reduced emissions, as the plan will outline, without dictating what kind of technology is to be used to achieve the emission standards.

However attractive that approach might be in my area, this budget for the Department of Energy reduces the spending on Fossil Energy Research and Development by 16 percent and reduces the Fossil Energy Coal Program by 7 percent. Those accounts are where the critical research involving Department of Energy and utilities is performed to create the systems to come forward with the innovative technology in order to achieve compliance with any standard. It just prompts me to ask why would we put a plan in place that requires utilities to reduce emissions through innovative technology and at the same time dramatically cut the very programs that are helping, in partnership with private industry, to create innovative technology.

Ms. Whitman. Well, Congressman, obviously I can't speak to the specifics of the DOE budget. I will say that under the Clear Skies Initiative, our budget, what the President has proposed when he talked about our commitment to greenhouse gas reduction of intensity by 18 percent, and the energy report, there is a great emphasis on different ways of spurring technology through tax credits and other initiatives. With Clear Skies, we are looking at mandatory caps on emissions recognizing that there already are about five regulatory

programs that are either in effect now or coming into effect, everything from the NOX-SIP call to the BART Rule, to the MACT Standard, and others. All of which will require that utilities make changes and find ways to reduce these emissions. The premise of the Clear Skies is that by setting those standards all at once at one time, they know exactly what they are going to have to get to on everything, and they can begin work now. In fact, there is a lot of research they have already done, and it becomes in the long term in their financial interest to increase some of the spending that they do on research and development. It does not become the responsibility of the government to have to supplement or support the research and development they are doing, so I presume that is part of the reason.

Mr. Mollohan. On that point, I would invite you to look at that connectivity between what you are doing here on the enforcement side, on the standards setting side, and what DOE is doing on the research side. I do think they are very, very complementary, and I know you are extremely sensitive to that, but I encourage you to look more carefully at what they are doing on the research side.

Ms. Whitman. And we are doing quite a bit on research as well.

Mr. Mollohan. Yes. And there have been hundreds of millions of dollars spent on this, and there is some very exciting stuff on the horizon that could be very complementary to this philosophical approach to emission standards. I encourage you to look at that.

Ms. Whitman. Certainly.

NATIONAL ENERGY POLICY: NEW SOURCE REVIEW AND ENFORCEMENT ACTION

Mr. Mollohan. The President's national energy policy was released May 17, 2001, and he directed the EPA and the Justice Department to review the impact on utilities and refineries of the Clean Air Act's New Source Review requirements and the recent enforcement actions taken. Where are you in this process?

Ms. Whitman. We are close to completion of the 90-day review that we were asked to do of New Source Review. As I indicated earlier, we are doing a very comprehensive review. It is a very contentious and complicated issue and we are very close to completion of that initial review. Then there are two different parts of New Source Review reform that have been proposed. One is based on a set of regulations proposed by the previous administration that actually went out in regulation for comment where they solicited comment.

We have had comment and input since 1996. The other set is a number of recommendations that were made that go beyond what was proposed in 1996 and would vastly streamline New Source Review. However, those have not gone out in a proposed rulemaking, they haven't been subject to public comment. We would have to do that. That is about a 3-year process, and that is one of the reasons why we would be so anxious to get the Clear Skies proposal through. With the numbers that the President laid out under Clear Skies, we would get better reductions faster and less expensively than we will get under

the current Clean Air Act, and therefore it would make it redundant.

CLEAR SKIES INITIATIVE VS. NEW SOURCE REVIEW

Mr. Mollohan. What is the relationship between Clear Skies Initiative and the New Source Review?

Ms. Whitman. There actually isn't any. They are totally separate. The Clear Skies proposal has been outlined by the President, and at the end of the day, what is going to be important where that ends up. If it were to be enacted, given the President's numbers, then New Source Review, as it applies to utilities, would be redundant, and we would no longer need to have it because we would be getting less emissions under the Clear Skies than we would get under the New Source Review.

It all depends on where the legislation ultimately ends up. But they are totally separate. The review that we are doing of New Source Review and the potential for a proposal on the 1996 rules, are separate and we haven't taken any action on those yet. There has been nothing finalized.

Mr. Mollohan. Do you plan on releasing your review of the New Source Review?

Ms. Whitman. The review of the review? At some point, yes. When we finally get through the process.

Mr. Mollohan. Do you have any idea when that might be?

Ms. Whitman. I keep saying soon, and soon becomes longer and longer, but in Washington, I am finding that is sort of the way it happens.

Mr. Mollohan. It is a complicated issue.

Ms. Whitman. It is. We are working amongst departments too, as it impacts a lot more than just EPA.

ENFORCEMENT: FTE REDUCTIONS

Mr. Mollohan. Staffing, I think we have touched on that a little bit, but again, if I might circle back around because I want to understand how your recommendations for FTE reductions are going to impact enforcement and the State's role and capability of performing enforcement. There is some angst out there in the country on this. You made a similar request last year: It wasn't approved. Your proposed cut for 2003 is about half of last year's proposal, but it is still a reduction of 95 FTEs, which I consider to be significant. What can you tell us about the justification for cutting staffing at your enforcement office?

Ms. Whitman. Congressmen, we won't be cutting actual bodies. We, in fact, anticipate hiring 100 new people starting now. We are in an active effort to recruit.

Mr. Mollohan. Is that because you have a lot of current vacancies?

Ms. Whitman. Yes. That is part of it. At the end of the year, we average a turnback of about 120 what I call funded vacancies, that the program carries. It is just the nature of the program----

Mr. Mollohan. Are you talking about in the enforcement area?

Ms. Whitman. In the enforcement area. About one fifth of our personnel is in the Office of Enforcement and Compliance

Assurance. The cuts that are being referred to are really in that number of funded vacancies. We don't anticipate any layoffs of current staff or any reassignment of current staff. Basically our proposal would lower the ceiling up to which we could go, but a number of positions within the ceiling are not filled.

Mr. Mollohan. So you are proposing having 17,648 FTEs. You are saying enforcement represents about----

Ms. Whitman. Our Enforcement and Compliance Assurance Office represents one fifth.

Mr. Mollohan [continuing]. One fifth of that number and of that one fifth, you are proposing eliminating 95 FTEs, for which there are vacancies existing at the present time?

Ms. Whitman. Yes. I believe the reduction can be achieved through normal attrition, without the reassignment of existing enforcement staff, and without a hiring freeze.

Mr. Mollohan. I guess I have to ask why we have vacancies in the enforcement area at this time?

Ms. Whitman. Well, Congress gave us money for fiscal year 2002 to hire up and we are hiring up, but not to the full amount that it was anticipated as far as the number of bodies. That had to do with the expense of staff costing us more now. They are getting more sophisticated, benefits and things. Salaries are more expensive; so we don't get as many for the same amount that we had before.

But again, what I go back to is the performance, and the performance has been very good. We have been able to see a very vigorous enforcement program that has been very successful over the last year. We anticipate having the same number of people to do the job. What we also have proposed, as you indicated, is \$15 million to States. States do 90 percent of the compliance and inspections now. That is where we believe we can leverage the enforcement that we have.

So by giving the States the \$15 million that we are talking about here, particularly now when so many of them are facing tight budget times, we can help ensure that they continue to the job that they are already doing and which they do very well and help us with that. They are on the ground. They know where the bad actors are. They know where to look. We need to help and enhance that effort while we continue to focus on the things that are the responsibility of the agency.

ENFORCEMENT GRANT PROGRAM PROPOSAL

Mr. Mollohan. I can tell you there is some real concern out there, at least in my State. \$15 million spread among all States is not going to be adequate. It is a competitive grant program, isn't it?

Ms. Whitman. Yes, the majority of the program will be competitive.

Mr. Mollohan. There are going to be a lot of States that don't participate in that \$15 million at all, I have got to believe. Do you have any estimate of how many States will be participating in this program.

Ms. Whitman. Not that I know of.

We don't have an estimate, do we?

No.

TARGETED WATERSHED INITIATIVE

Mr. Mollohan. Well, I just want to renew my earlier concern expressed about that. I know last year the Congress did not approve it.

Let me touch on watersheds a moment, Governor. You have testified a bit and some questions have been asked about your New Initiative to fund the \$21 million to deal with watershed health throughout the United States. Could you elaborate on how is this program going to work in practical terms? I have a chart here that indicates that its proposed implementation schedule is to start in the spring of 2002. At that time you will be announcing the Initiative, sending letters to governors, etc.

Ms. Whitman. What we are doing is reaching out to governors to help us put the plan together as the best way to meet their needs. We are working in a very aggressive partnership mode with the States. We anticipate putting a letter out to the States, asking them for their ideas and input as to how best to frame the program so that we can actually target the watershed areas that we want to reach. As I indicated before, this is an effort to leverage the moneys that we are already spending through different programs on watersheds and start to provide States with some examples to follow.

Mr. Mollohan. I think this is an exciting initiative if it plays out the way I imagine it could, for our area certainly. Is there an inland watershed focus to this? I know we have a lot of coastal programs and estuary programs.

Ms. Whitman. It certainly isn't relegated to inland waters exclusively, but they would certainly be considered as part of it. Really, when you talk about watersheds, you start inland and work out. Now, we have to work with the States to see how we deal with the coastal plains and the coastal areas and estuaries versus the full watershed. If you look at some of them they encompass a number of States. The exciting thing here is the ability to maximize the money we are already spending, the research that we have done, and to see impact that goes far beyond one particular area stream or watershed.

Mr. Mollohan. I have a couple other questions to follow up, but I know my time is up right now. Thank you, Governor.

Mr. Walsh. Mr. Knollenberg.

Mr. Knollenberg. One quick question, Governor, with reference to Mr.--the gentleman from West Virginia, Alan, which watersheds are you targeting?

Ms. Whitman. We haven't drawn----

Mr. Knollenberg. You are going to get to that, to the prioritizing----

Ms. Whitman. Yes. We haven't pre-identified them.

COOK NUCLEAR PLANT: FOSSIL FUEL GENERATION

Mr. Knollenberg. I want to go back to this question to Mr. Holmstead referenced in the last conversation I had. It has to do with the Cook Nuclear Plant. The reason we think that--and you might want to come forward and respond to this.

Ms. Whitman. So we can give you another robust answer.

Mr. Knollenberg. I need a robust answer, more robust than the last one.

Let me just explain. This Cook nuclear plant that you referenced, I didn't bring it up, but you did, the Michigan view on this is contrary, as you probably know, to what you just stated. You stated that because the Cook Nuclear Plant came back online, that the higher levels in 1998 and 1999 reflect increased fossil generation. That is what you are saying.

Mr. Holmstead. No. I don't think I explained myself very well.

Mr. Knollenberg. To make up for Cook being off-line, that is what you said.

Mr. Holmstead. What I tried to say, and I may not have explained myself very well, is that when the nuclear plant went off-line, we saw an increase in the use of fossil fuels in Michigan, not surprisingly. If you take that increase out over a 7-year period, you would predict a very significant increase in the use of fossil fuel.

Mr. Knollenberg. Let me interrupt you, because here is the difference. Cook is a part of the AEP system. It is dispatched by AEP, and the vast majority of its generation doesn't even go into Michigan. It goes out of the State because it is a part of a broader group. I can understand where you might make that assumption that it would stay within the State, but this says, no, that it was outside the State. It would only make a small difference in terms of the actual fossil fuel generation.

Mr. Holmstead. No, but I believe the plant is located in the State of Michigan.

Mr. Knollenberg. It is, yes.

Mr. Holmstead. And the way the program works is that----

Mr. Knollenberg. Which program?

Mr. Holmstead. The NOX SIP Call or the section 126 rule, either one. The allowances are allocated on a State-by-State basis.

Now, I don't know----

Mr. Knollenberg. The basis of the generation of the power within that State.

Mr. Holmstead. Regardless of where it----

Mr. Knollenberg. That doesn't make any difference?

Mr. Holmstead. I mean, I don't know enough about the AEP system to know where all the plants are located.

Mr. Knollenberg. It is conceivable that most of the power generation could be in Michigan, which would produce a flawed assumption on the part of these growth assumptions that you are making. I am just stating that that is one of the things we have difficulty with, because we are being told that it is for this reason.

Very honestly, I think if you analyze it or look at it carefully you will find that it is a little different than what you might presume, because that power generation didn't go into the State of Michigan. It went outside, and the difference in percentage of growth factor is anywhere between 13 and 31 percent. EPA says 13 percent. We are saying 31 percent. I think something----

Mr. Holmstead. No. And I agree absolutely. I sense from your questions that you are not entirely satisfied with the

situation.

Mr. Knollenberg. I am not.

Mr. Holmstead. And----

Mr. Knollenberg. In fact, let me just say this. In your letter, your response or your action, your coming up on the Hill by the end of March, we expect to have an answer.

Mr. Holmstead. What I can commit to with the support of Governor Whitman is that I will make sure that we get to the bottom of all of these issues and that we come up to talk with you.

COMBINED SEWER OVERFLOWS (CSO): FARMINGTON DISTRICT

Mr. Knollenberg. I think we should. I would appreciate that.

Governor, getting back to the item I brought up the last time around, concerning a city in my district, where I mentioned the high technology, the liner that is being used to reduce costs greatly. It is called the cured-in-place method of pipe repair. I have been told that it can double the life of the current pipe at only one-third of the cost of replacing the pipe. I have no idea about projecting the longevity of any of these things, but apparently it has been accepted certainly in some countries. I don't know how much it has been accepted here, but we have one of those in my district, so we are kind of anxious to see how it works out. I have been assured this method is going to work out very well.

You know as well as I do that the cost that is being estimated for these CSOs and SSOs is just horrendous. There is no way we can do it, and we can't expect by mandates to make the cities and the towns do it.

But what I am wondering is--will the EPA provide flexibility of some kind so that States can at least deal with the problem for less costs?

In my own county again, there is a program.

Where they are expecting the cost to be something like \$180 million. They are working on an alternative which may or may not have EPA's acceptance that would cost around \$20 million, as opposed to \$180 million. They are talking about using existing CSO infrastructure for SSO discharges instead of the retention basin that would cost \$180 million, the city claims they can do this for something like 10 cents on the dollar and still bring about a completion.

The point is, though, does it meet with EPA specs? I don't know. Does it meet with the specs of the various States? But it is something that is being looked at seriously, because people, certainly in Michigan and around the country, know that they can't come up with these monies. The mandates are too excessive, too high.

So I guess, what do you need from Congress, if anything, to help you in working with cost-effective alternatives on these various problems around the country. That is worth talking about, I think.

Ms. Whitman. Oh, absolutely, and we do have some ability to provide flexibility in meeting standards. It may be, though, as we get into the discussion on these particular water issues that we might need to come back to Congress.

First of all, we should be talking with Congress as we go through this, because it is going to require more than just one entity of government or the private sector to meet these challenges. I don't know that we won't perhaps require some more flexibility from Congress in order to be able to maximize the technology that is out there, but I can't say at this point.

There are a lot of exciting technologies throughout, and actually what you are referring to on that sleeve in the pipes is something I have heard of being used in Newark. They apparently are using that for infrastructure, which is very old and costs just an enormous amount of money in a community that can hardly afford it.

That is the sense of the issue that we face: these costs are just enormous. They cannot be borne by any one entity alone, whether it is a municipal government, State government, Federal Government or the private utility. So we need to be as flexible as we can and understand that, whatever the technology is, we have to make sure it works.

It is not up to us. I would like to get EPA out of the business of designating a single type of technology. What we should do is say, here are the standards that have to be met, and then we do have a responsibility to judge each of the new technologies that come forward to make sure they do what they say they are going to do. Then we can say, yes, this is something you can use or, no, it is not going to do the job they claim it is going to do.

But, beyond that, we should not mandate you have to use this technology, you have to use that one. That to me does not make sense, and we recognize that not all wisdom rests with us.

Mr. Knollenberg. I am glad to hear you say that, because I do think it calls for a greater cooperative effort to collaborate and then cooperate in a way that we can architect some alternatives that are just as effective and costs far, far less. So, thank you.

Mr. Walsh. Mr. Fattah.

ENVIRONMENTAL JUSTICE

Mr. Fattah. Thank you, Mr. Chairman.

Governor, let me ask you about some environmental justice issues related to, you know, toxic waste cleanup, Brownfields. Your department has--you verified that a disproportionate share of these sites in many instances are in communities that are heavily populated by African Americans, Latinos, Native Americans; and I noted you have been making some efforts in this regard. I want to give you a chance to expound on what is being done and what--to what degree that we can be helpful, you could utilize the--in responding more to these issues.

Ms. Whitman. Well, environmental justice is of great concern to us. As you know, there were a number of outstanding title VII issues that we faced. We have been able to reduce that backlog by about 90 percent. As we look at projects, we have to take into consideration, and we do take into consideration, the environmental justice impact of individual projects. We had a bit of a discussion this morning about Brownfields, and---

Mr. Fattah. I don't want you to be repetitive.

Ms. Whitman. No, no, no. From your point of view, what I think is very important in the Brownfields legislation that you all gave the country is not so much the dollars, although the President is requesting a doubling of the Brownfields program to \$200 million, but what is most important is the liability protection. That to me is going to provide the greatest stimulus for the redevelopment of these sites, and what we are doing now is working with the States and working with the communities to help them identify Brownfields sites, to help.

I entered into a memorandum of understanding with Habitat for Humanity to identify Brownfields sites that were appropriate for low and moderate income, subsidized housing. We have entered into an agreement with the U.S. Soccer Foundation for those Brownfields sites that could provide soccer fields and recreational outlets. There are a number of different uses, and not only will the reclamation of a Brownfields site help reduce environmental pollution, it will also help increase the health of the community, economically, environmentally and physically.

One thing that we have seen from Brownfields is, for every dollar that the Federal Government invests in a Brownfields site, we leverage \$2.50. For every acre of Brownfields that is redeveloped, we save four acres of green space.

We are looking forward to and are excited by the opportunity and the challenge of the new program, but, as I said, it is not going to be just what the Federal Government spends that is going to make the difference. It is also going to be this liability protection, which really is going to free the private sector to become more actively involved in doing Brownfields reclamation. While Brownfields do occur all across the country and not just in urban areas, the preponderance of them are in urban and low-income areas. So we are looking forward to seeing some very good projects take place.

STATE PERFORMANCE

Mr. Fattah. Thank you, Governor.

Let me ask you, the report card that the Chairman referred to, does OMB have a score? Do they get reported on?

Ms. Whitman. I don't know if they report on themselves.

Yes, they do. Okay. They do. Fair enough.

Mr. Fattah. But speaking of report cards, since 50 percent of the dollars driven to EPA, you drive to States--and I would assume there will be some political sensitivity, but I am just talking as a general matter. I assume there are some States that are more aggressive, more efficient, more effective than other States, and I would like to know how is it that you go about, I assume through some process of carrot and stick, to encourage those that need encouragement, and is there anything in your budget request that is related or sensitive to those kinds of issues?

Ms. Whitman. Actually, all our programs in which we work with the States reflect the individual State's commitment and the sophistication that they have in the environmental area. Most of our programs are competitive. There are some where we do realize that we need to put more emphasis. We mentioned a little earlier on the enforcement side of it, there are some

States that do a very good job and some States that don't do a very good job. For those that aren't as geared up to do enforcement, we anticipate maintaining our presence there.

The dollars that we are talking about giving to the States is more to enhance those that, for instance, may have a very good water program but they don't have much in the way of air inspections. If we could give them some money, they could bring themselves up to that level, the same level in air as they are in water. We are very sensitive to the fact that there is an enormous difference, and where there are problems we work with both carrot and stick with the States to try to get them into compliance and to ensure that they are putting appropriate attention to the environmental needs.

CLIMATE CHANGE

Mr. Fattah. Lastly, I think you referred to it as climate change, that general terminology, global warming. You know, this is the warmest winter on record, and we have some drought issues in both your home State of New Jersey and in Pennsylvania and throughout, which is probably going to lead to a whole range of other issues going forward. I know that you are the administration's point person on this issue and how we are going to both cooperate internationally and what we plan to do domestically, and you may have spoken about this already, but I would like to--if you want to give some remarks on it, I would like to hear it.

Ms. Whitman. Certainly. The reason I say global climate change is because in some areas of the globe we are seeing it getting colder. Some of the ice packs are increasing. Other parts of the globe we are seeing a warmer trend. So it is not uniform around the world. That is why we say global climate change rather than warming for accuracy's sake.

The President's proposal would reduce the level of greenhouse gas intensity by 18 percent over the next 10 years. It provides a cut point to review where we are, to see what we are achieving and if there is a need to have a more vigorous market-based approach to decide that at that time.

There is also a great deal of emphasis put on enhanced research and development on the science. Because while science tells us there is definitely a climate change, our accounting science is not as definitive as to what is causing that, whether it is all human impact, whether it is part of a natural cycle exacerbated by human impact or which of the emissions are the most troubling to the environment.

Black soot, for instance is rarely talked about when people today are talking about what impacts climate change. Yet that is something that those scientists feel has a very big impact on climate change. So the President is calling for a much more focused effort on scientific research, not to deny that there is global climate change occurring. He believes there is. He doesn't think we can wait until we have all the definitive signs. That is why he has proposed the 18 percent reduction in intensity with an ability, should a science review justify it, to stop greenhouse gas emissions entirely and then to start to reduce. I mean, that ultimately would be where we would like to go, if the science can justify that.

What is significant about what he proposed is that there is baseline protection in there for those companies that choose to act early and, to me, that is going to be again one of those things that is going to encourage companies to take action. They will know that they will have protection against any future regulatory change that might demand reductions. Whatever they do now will count against that. We are in the process of developing that system so that we know that we can provide that baseline protection.

The Department of Energy has been charged with enhancing its reporting system. They do maintain a reporting system on greenhouse gas emissions. We are working with them to enhance reporting that so we have a better baseline understanding of exactly what is being proposed. There is an emphasis that the President wants to see us put forward on involving developing nations. When you limit the developing nations and don't have them as part of the process, really, at all, you are missing a lot. You are talking about China, which is the second largest greenhouse gas emitter, or India, which is in the top 10. And the argument, while understandable, that we don't want to do anything that would hurt their ability to grow their economies, the premise that the only way they can grow their economies is by repeating all the mistakes that we made during a period like the industrial revolution totally ignores all the advances that we have seen in technology.

What we should be looking at is, how do we provide a technology transfer? How do we help developing nations continue to grow their economies while being smart about it, using what we know now? How can we help them grow without having them continuing to hurt the environment?

To say we should just do nothing until they have reached economic parity with the developed nations means that we are going to be in a hole so deep, as far as the environment is concerned, that we will never be able to remediate it. So the point here is to engage now with the developing countries, to engage with businesses and technology transfer to make sure that, when we call for great expenditures, we are doing it in the areas that are really going to make a difference. That is how we are proposing to move forward with this climate change proposal.

Mr. Fattah. Well, let me thank you, Governor, and I wish you well on that.

I guess China at this point would prefer to be on that list of discussions instead of on the other list that has been mentioned.

Thank you, Mr. Chairman.

Mr. Walsh. Thank you.

Mr. Frelinghuysen.

DROUGHT

Mr. Frelinghuysen. Thank you.

The other side of Mr. Fattah's question has to do with water supply. Your budget and your emission has everything to do with quality water, water protection, watershed protection, wetlands protection. Any views as to where we are going in terms of the drought? I mean, I know that this largely falls on municipal and

State, but we are looking at a major crisis. I just wondered if you had anything you would like to share for the good of the order.

Ms. Whitman. Well, as you know, Congressman, the actual water quantity falls under the realm of the Interior Department rather than under the Environmental Protection Agency. Having said that, of course, quantity affects quality. We see the intrusion of saltwater up our streams, and as we deplete our underground aquifers, as we pollute, we affect the water quality. As we drawdown water, that intensifies some of the adverse impacts we are seeing. So we do have a very real concern; and, as I mentioned earlier, I sincerely believe water, both quantity and quality, will be the biggest challenge that we face.

It is hard to affect people's behavior, to get people to understand that the little things they do can have an impact. We get a pushback all the time, and you see it as we get into drought mode. I saw it when I was governor when I had to declare a drought emergency. People do not believe that if they just wait and run the washing machine when it is full, that what they do in their home is actually going to have an impact on this huge problem that we have. And it does. It is going to take everybody to solve this problem.

It is not just going to be the water utilities. It is not just going to be the States. We are looking constantly--we are working with agriculture to work on better ways with farmers so that they can use better technologies in irrigation. How do we recapture water from run-off? We are looking at what we can do, working with business and industry, to reduce the amount of water that they use in processing. We are doing a lot to try to reduce that dependence.

But at the end of the day, when you talk about irrigation, that gets to be more Agriculture and Interior than it does us. We are actively engaged in this, because it does have a throw-off impact to us.

Mr. Frelinghuysen. Public education, absolutely essential. I do think sort of like the success of teaching children about the dangers of smoking in school, if--and I know there are some school models out there in terms of water conservation and preservation. It is amazing what you can do. We may be hopeless as adults, but as children we are educable.

Ms. Whitman. Yes. We just launched our Web page on the use of water.

Mr. Frelinghuysen. Well, it just so happens, I have a question that relates to your Web page.

Ms. Whitman. On water usage for children?

LEAKING UNDERGROUND STORAGE TANK (LUST)

Mr. Frelinghuysen. No. What would be a hearing without a little LUST? The underground storage issue, you are accelerating that program. You have got I think \$75 million towards additional cleanup. Any comments in that area?

Ms. Whitman. We believe there are about 470,000 leaking underground storage tanks throughout the country. It is clearly an issue of great concern, and that is why we have enhanced funding for it. We are working again on technologies, better technologies for cleanup. We are trying to work with the local

communities and States to ensure that they have prioritized the sites and that they are working as quickly as possible to deal with them.

ENVIRONMENTAL TECHNOLOGY

Mr. Frelinghuysen. Lastly, the issue of technology, we have here, as I am sure through your agency, more people coming into our offices with new techniques. I know you have a number of laboratories. I am not suggesting for a moment that they be like Consumer Reports. But I would assume that we don't have the ability to act as a clearinghouse, although to some extent we become a clearinghouse. Do any of your labs look over some of these technologies, some fairly ingenious, to determine whether they have some worth?

Because, you know, with all due respect, the old pump and treat might have been good, but, in reality, there is a lot of technology out there, and it seems to me that we could be-- without endorsing a product, we could be doing things a lot smarter and quicker than we are.

Ms. Whitman. Absolutely. That is a large part of what the labs do and what we do here in Washington. The Ann Arbor Motor Vehicle Lab, for instance, looks at new automotive technology for reductions of emissions. We are constantly focused on that.

We have a new initiative that I am undertaking in this budget. It is something that I think is very important, which is the National Environmental Technology Competition, and it is designed to help recognize and reward new and innovative technology.

One of the things that we have found is that so many people are working on these areas, and don't always know what the other is doing. Sometimes it is duplicative and then other times they are starting from scratch when they don't need to. So what we are trying to do is help to identify in a more effective manner, those low-cost solutions that exist for environmental programs and for environmental problems and then to stimulate development where the technology gaps exist. We are doing that by recognizing those who have new technologies.

This is going to be a partnership with States and private sector representatives and ensuring that we verify and identify technologies that are actually working and then call attention to them. We are developing criteria for technology evaluation so that we have the highest standards available and make sure that whatever we identify in fact--offers a real solution to the problems. We are trying to get a better understanding between EPA and the industrial sector on a number of environmental concerns and aligning our future environmental requirements with technology performance capabilities.

We have a lot of standards coming online. We are not always sure that the technology exists to meet those standards, and we need to be. We need to be assured that, in fact, you can meet those standards and in an affordable way. I hope that this competition will in fact help us on this.

Mr. Frelinghuysen. Thank you for your testimony.

Thank you, Mr. Chairman.

Mr. Walsh. Mrs. Northup.

OHIO RIVER BRIDGE PROJECT: DRAFT ENVIRONMENTAL IMPACT STATEMENT

Mrs. Northup. Thank you. I am sorry I am going back and forth. I hope I am not repeating questions that somebody else has asked, but I have two committees going on at the same time. I haven't learned to be two places at once yet.

I want to ask you about your participation with the Federal Highway Administration on draft EIS statements and your involvement in the NEPA process, and I will just--to give you a general idea, I would estimate that 80 to 90 percent of the constituents in my district support a bridge that has been in the planning process. It has been under study for over 30 years. That is a long time, wouldn't you say? To say it is moving forward at a snail's pace might be an exaggeration of how fast this is moving.

However, we now have a draft EIS before us, but it has raised some questions as I have worked with the Transportation Department. What EPA sees its role in this is, and I guess what--I want to ask some general questions.

I have to tell you that I think the EPA has acted very responsibly with the cabinet in Kentucky in trying to address this fairly, but some of the previous efforts have raised these questions in my mind. That is, does EPA consider land use, planning and zoning a local responsibility or EPA's?

Ms. Whitman. That is very definitely a local responsibility.

Mrs. Northup. So would you think it would be appropriate for EPA, in responding to a draft environmental impact statement, to be talking about sprawl and causing sprawl? I mean, how would they be able to do that if they don't even have a set definition between what is sprawl and what is planned growth?

I might just for the record say the bridge we are talking about 35 years ago, when it was first proposed, you might say it would lead to growth. In 35 years, growth has far passed up what this bridge--where this bridge is going to go. It is now almost irrelevant.

But the words sprawl and planned growth are ones that seem to be reoccurring in the EPA's evaluations here.

Ms. Whitman. Well, Congresswoman, I think that, as far as the bridges are concerned, right now most of the issues where we had concerns with this project have been resolved. It is not up to us to make the final determination on smart growth. We are not the Nation's planner.

However, I do think it is appropriate to raise the issue of sustainable development and smart growth, simply because when we continue to put additional pressure on the environment we end up having to deal with the consequences of that. But, at the end of the day, that is the final decision as to where development takes place or it doesn't for the large part, unless it is in an environmentally sensitive area, wetland or something, is not our basic decision. But, as I say--and I don't think it is inappropriate for us to raise the issues of concern about sprawl and growth, just so we know they are being considered. If that is the way people want to go, then that is the way the State or the local government makes its decision.

Mrs. Northup. I think in this particular project that there have been a lot of conversations and there has been a lot of

resolution about these issues. I think what my questions are is where is the official EPA position--and maybe I should say are you convinced that people in the middle levels and lower level manager levels are aware of what the official position is?

You know, I think my concern is that they are expanding their oversight beyond what their responsibilities of their respective departments are and that they go beyond their areas of expertise and responsibility. Maybe they have long-standing relationships with organizations that have taken a position to block something, and they become as engaged with organizations, you know, in advocacy as just trying to regulate. And I just wondered if you are finding yourself in the position and what position you are taking on any sort of areas where this might be a problem.

Ms. Whitman. Well, Congresswoman, when those kinds of issues or concerns are raised to us, we bring them up with the region. We investigate and take appropriate action if it is appropriate to redirect where responsibility lies. Making decisions, we will do it. If we think there is anything inappropriate going on, we will take the action required to address it.

Mrs. Northup. Well, this is the last round of questions for me. I am going back. But, first of all, let me thank you for what I believe is very honest and straightforward testimony. I do believe that people of good will can look at the same facts and have a different conclusion about what they think the right public policy is, but just clarifying what the position of your cabinet is, about relying on science and technology, about laying down clear guidelines to us, we can at least have that debate based on a confidence that we have the information that will help us make those decisions.

I do think that your leadership and the clarity of what--of how you are approaching and your Department is approaching each one of these challenges is very reassuring to me.

I believe that the environment is hugely important to the American people and that they really don't want us to walk away from that. On the other hand, when they start to believe that there are political agendas that are mixed up with this, that there is unproven scientific effort, it undermines our ability to go forth carefully and keep the public trust with us. I am very reassured to hear from you today and just so thrilled, quite honestly, with the straightforwardness of your cabinet's responses.

Ms. Whitman. Well, thank you very much. You are absolutely right. You can look at all the issues relative to the environment, and good and honest people can disagree on how best to solve the problems. But as long as we can agree on what the issues are and form some base there, I think we can come to conclusions that will get us to the end of the day. I look forward to working with you.

Mrs. Northup. Thank you.

Mr. Walsh. Mr. Mollohan.

WATERSHED PROGRAMS

Mr. Mollohan. Thank you, Mr. Chairman.

Regarding this \$21 million initiative for watersheds, I

think Mr. Fattah asked what would be the focus of the initiative, would some of it be on developing intervention strategies or implementation? I would like to follow up and have you elaborate on that. What is this money going to be eligible to be used for?

Ms. Whitman. We want a variety of projects. We want urban and rural inland, issues like apoxia in the Gulf. The inland projects obviously affect the watersheds. They affect the bays and the oceans. We are going to have criteria we are considering for the program, will run the scope from the value of the resource, the likelihood of deliverables, of getting real results from the project that is proposed so they can be measurable.

We want to see broad support, broad community support, as I mentioned. We are modeling it on the Charles River and Massachusetts Initiative. One of the things that we have seen and gleaned is that, as we have from a number of other things, is that you really need broad community support. You need local government support, as well as State, but you need the community involved as well. That will make a difference in how we choose them.

The innovation that is behind the project is going to be something that is going to be of importance to us, but we are looking for a variety of both urban and rural programs where we can address the dollars.

MID-ATLANTIC HIGHLANDS PROJECT

Mr. Mollohan. I will just commend you to one area, the Mid-Atlantic Highlands. There has already been a lot of work done in the Mid-Atlantic Highlands. It encompasses watersheds in four States--Pennsylvania, Maryland, West Virginia, and Virginia. A lot of that work has been done in very close cooperation with the EPA and its regional offices.

Ms. Whitman. Right.

Mr. Mollohan. And so we are actually excited because we are a little ahead of the curve, and hope that we can be active in that program.

Governor, I join the Chairman and the committee in appreciating your testimony here today and look forward to working with you. Thank you very much for your appearance here today.

Ms. Whitman. Thank you.

NATIONAL ACADEMY OF SCIENCE (NAS) REVIEW: DIOXIN REASSESSMENT

Mr. Walsh. Thank you.

A couple weeks ago, I sent a letter to you requesting that the Agency undertake an agreement with the National Academy of Sciences to review the current draft regarding the dioxin reassessment, which I understand is now being prepared for interagency review. In my letter, I noted several areas that I thought it appropriate for NAS to look at closely. I also mentioned that I understand such review may delay the final publication of the reassessment.

I want to state for the record that, given the importance and likely influence this document will have on government and private cleanup efforts, numerous regulatory matters around

even on policy questions regarding the U.S. food supply, I believe a slight delay is not only warranted but also perhaps advisable. I truly believe that an NAS review is likely to expedite a subsequent interagency review and will have the added benefit of bringing to bear the expertise of nongovernmental scientists in this area.

It would be ideal if you could respond right now in the affirmative, but I understand that may not be possible. My intent at this time was merely to emphasize my interest in the matter, and if you would like to comment, please feel free to do so.

Ms. Whitman. Oh, I certainly will. We are considering a reassessment; we are considering sending it to the National Academy of Sciences. We do recognize this has been a long process, but you have raised a very important question, and the issues are of great concern. At this point I have not made a final decision on that, but that is certainly one of the options that we are looking at very seriously, on how best to go forward with this.

CLIMATE CHANGE: KYOTO PROTOCOL

Mr. Walsh. Thank you.

Just an editorial comment before we close, and this is the end of the hearing, Congressman Fattah mentioned the global warming issue and the Kyoto Protocol, and I would just like to say that I have not been to Shanghai in China, but I have been told by people who visited there that the air is so bad that people wear cloths over their mouths, that you can't see out of windows and buildings. So I have just heard that.

I have not been there myself, but I have been to New Delhi in India about 3 years ago, and I actually lived in Nepal and in India in the Peace Corps a long time ago. The air is worse now than it was when I was there 25 years ago. In fact, between the coal-fired power plants and the coal-fired trains and coal pots that people use to heat their homes and heat their hovels where they live along the river, not to mention the dung fires and the diesel, the air is dangerous to breathe. In China, I have heard it has a yellowish tint. In New Delhi, it is brown. The air is brown.

I think we have--and I am not crying crocodile tears here. I think we have a moral responsibility to those people that live in those countries to make sure that if their governments aren't prepared to go along with the international accords on clean air that we should force them. Granted, we consume probably more energy than any other country in gross terms and probably per capita, but we also I think do a better job than almost any country in terms of strenuously enforcing environmental codes. So we should use our--and I think we have it--our moral high ground to encourage strongly China and India to participate in any international agreement, because they are making their people very, very sick.

You may give them--as you pointed out, you may give them the opportunity to improve their economy, but it should not be at the expense of their health and their environment. So for what it is worth.

Ms. Whitman. Oh, we just got back from India and Thailand

last month, and I would concur with the quality of the air there. We do have a memorandum of understanding with the government of India. We are offering them technology and technological help, because there is a very high incidence of lung disease, particularly among women and children because of the fuel they use indoors to both heat and to cook. It is a serious concern.

As we know, we see those pollutants don't stay where they are. They migrate. We are seeing pollutants, in fact, of the salmon off our West Coast, Alaska. For those tribes that have a subsistence living, it is a very real concern. We are seeing pollutants turn up there that we banned years ago that are not coming from us but from other countries. So we all are in this together, and I think we need to understand that.

Mr. Walsh. Thank you. The committee will have additional questions which will be submitted to you for a written response for the record. Your prompt response to these is appreciated.

The committee will stand adjourned until tomorrow, March 13th, at 9:30 a.m. in room H-143, where we will continue taking testimony on the fiscal year 2003 budget submissions of three more agencies under this subcommittee's jurisdiction. Thank you very much for your forthright testimony.

Ms. Whitman. Thank you, Mr. Chairman.

Mr. Walsh. The hearing is adjourned.

[GRAPHIC(S) NOT AVAILABLE IN TIFF FORMAT]

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